THE BOMBAY MUNICIPAL BOROUGHS ACT, 1925.

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SCHEDULES I—VII.

BOMBAY ACT No. XVIII of 1925.[1]

[THE BOMBAY MUNICIPAL BOROUGHS ACT, 1925.]

[*8th June 1926.*]

Amended by Bom. 10 of 1926.
" " " 1 of 1927.
" " " 12 of 1927.
" " " 3 of 1930.
" " " 4 of 1930.
" " " 9 of 1930.
" " " 25 of 1930.
" " " 12 of 1931.
" " " 23 of 1931.
" " " 7 of 1932.
" " " 15 of 1932.
" " " 17 of 1933.
" " " 14 of 1934.
" " " 19 of 1935.
" " " 14 of 1936.
" " " 15 of 1936.
" " " 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 9 of 1938.*
" " " 8 of 1939.
" " " 20 of 1944.§
" " " 17 of 1945.‡
" " " 22 of 1945.§
" " " 7 of 1946.§
" " " 1 of 1947.
" " " 2 of 1947.
" " " 41 of 1947.†
Adapted by the India (Adaptation of Existing Indian Laws) Order, 1947.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1925, Part V, pages 187–195; for Report of the Select Committee, *see ibid.*, pages 335–342; and for Proceedings in Council, *see* Council Debates, 1925, Volumes XV and XVI.

* Section 9 of Bom. 9 of 1938 which reads as under:—

"9. (*1*) Nothing in this Act shall affect any municipality constituted under the District Act or the Boroughs Act or any committee of such municipality constituted immediately before the commencement of this Act, and no appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed by or in respect of such municipality or committee shall be deemed to be invalid by reason only of the fact that this Act has come into force. Saving.

(*2*) Notwithstanding anything contained in this Act, any casual vacancy in such municipality or any committee thereof shall, in the case of a municipality constituted under the District Act subject to section 17 of the said Act and in the case of a municipality constituted under the Boroughs Act subject to section 25 of the said Act, be filled in the manner provided by either of the said Acts, as the case may be, as if this Act had not come into force."

§ These Acts have been repealed and re-enacted by Bom. 1 of 1947.

‡ This Act was repealed and re-enacted, and the amendments made by section 9 and Schedule E of the said Act have been continued in force, by Bom. 52 of 1947, s. 2.

† Section 7 of Bom. 41 of 1947 reads as under:—

"7. Nothing in this Act shall affect any local board or any municipality constituted immediately before the coming into operation of this Act; and notwithstanding anything contained in this Act, any casual vacancy in such local board or municipality shall be filled in the manner provided by the respective principal Act under which it was constituted, as if this Act had not come into operation." Savings.

An Act to give wider powers in the management of municipal affairs in certain cities.

WHEREAS it is expedient to amend the law relating to the management of municipal affairs in certain cities of the Bombay Presidency;

And Whereas the previous sanction of the Governor General required by section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:— 5 & 6 Geo. V c. 61.

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay [1][Municipal Boroughs] Act, 1925

(*2*) It extends to the whole of the Bombay Presidency.

2. [*Act V of 1868 not to apply to powers under this Act.*] *Omitted by the Adaptation of Indian Laws Order in Council.*

Definitions.

3. In this Act and in the schedules, unless there be something repugnant in the subject or context,—

(*1*) "Annual letting value" shall mean the annual rent for which any building or land, exclusive of furniture or machinery contained or situate therein or thereon, might reasonably be expected to let from year to year, and shall include all payments made or agreed to be made by a tenant to the owner of the building or land on account of occupation, taxes, insurance or other charges incidental to his tenancy.

(*2*) "Building" shall include any hut, shed or other enclosure, whether used as a human dwelling or for any other purpose, and shall also include walls, verandahs, fixed platforms, plinths, doorsteps and the like.

(*3*) "Commissioner" shall mean the Commissioner of a division appointed under the Bombay Land Revenue Code, 1879. [3]or Bom. V of 1879.

(*4*) "Councillor" shall mean any person legally a member of the municipality in a municipal borough.

(*5*) "Dangerous disease" shall mean cholera, plague, small-pox, and any endemic, epidemic or infectious disease by which the life of man is endangered.

(*6*) "House-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cess-pool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom.

(*7*) "Judge" shall mean District Judge, Joint Judge, Assistant Judge, Judge of a Court of Small Causes, Subordinate Judge, or Joint Subordinate Judge.

(*8*) "Land" shall include land which is built upon or covered with water.

(*9*) "Municipal borough" shall mean a Municipal district as defined in the Bombay District Municipal Act, 1901, included or hereafter included in Schedule I, during the period of such inclusion. Bom. III of 1901.

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[1] These words were substituted for the words "City Municipalities" by Bom. 4 of 1930, s. 4.

[2] The words "Provincial Government" were substituted for the words "Commissioner in Sind" by the Adaptation of Indian Laws Order in Council.

[3] The words "and in Sind, the [2][Provincial Government]" were deleted.

Bom. III of 1901.

(*10*) " Municipal district " shall mean a municipal district as defined in the Bombay District Municipal Act, 1901.

(*11*) " Nuisance " shall include any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property.

(*12*) " Octroi " shall include a terminal tax.

(*13*) " Official year " shall mean the year commencing on the first day of April.

(*14*) " Owner " shall include the person for the time being receiving the rent of any land or building, whether on his own account or as agent or trustee for any other person or for any society or for any religious or charitable purposes, or who would so receive the rent if such land or building were let to a tenant.

(*15*) " Public securities " shall mean—

(*a*) securities of the [1][Central Government] and of the [2][Provincial Government];

(*b*) stocks, debentures or shares in railway or other companies the interest whereon has been guaranteed by the Secretary of State for India in Council [3][or the Central or the Provincial Government];

(*c*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India; or

(*d*) a security expressly authorized by any order which [4][the Provincial Government] makes in this behalf.

(*16*) " Public street " shall mean any street—

(*a*) over which the public have a right of way; or

(*b*) heretofore levelled, paved, metalled, channelled, sewered or repaired out of municipal or other public funds; or

(*c*) which under the provisions of section 115 or 116 is declared by the municipality to be, or under any other provisions of this Act becomes a public street.

(*17*) " Private street " means a street which is not a public street.

(*18*) " Salaried [5][servant of the Crown] " shall not include a retired [5][servant of the Crown] in receipt of a pension or a person in receipt of a salary [6][from the Crown] who is not a full time [5][servant of the Crown].

(*19*) " Street " shall mean any road, footway, square, court, alley or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not; and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon and if it is used by any persons as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not; but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid.

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[1] The words " Central Government " were substituted for the words " Government of India " by the Adaptation of Indian Laws Order in Council.

[2] The words " Provincial Government " were substituted for the words " Local Government", *ibid.*

[3] The words " or the Central or the Provincial Government " were inserted, *ibid.*

[4] The words " the Provincial Government " were substituted for the words " the Government", *ibid.*

[5] The words " servant of the Crown " were substituted for the words " servant of the Government", *ibid.*

[6] The words " from the Crown " were substituted for the words " from the Government", *ibid.*

(*20*) " Tax " shall mean any toll, rate, cess, fee or other impost leviable under this Act and shall include a water rate.

(*21*) " Vehicle " shall include bicycles, tricycles, motor cars, and every wheeled conveyance which is used or capable of being used on a public street.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

(*1*) *Municipal boroughs.*

Extension of Act to and withdrawal of Act from municipal districts and boroughs.

4. (*1*) [1][The Provincial Government] may, by notification in the [2][*Official Gazette*] and with effect from a date to be specified in the said notification, include in Schedule I any municipal district [3]* * or exclude any municipal boroughs from the said Schedule.

(*2*) [1][The Provincial Government] may, after consulting the municipality, by notification in the [2][*Official Gazette*] and with effect from a date to be specified in the said notification, extend, contract or otherwise alter the limits of any municipal borough.

Limits to be specified in notification altering area.

(*3*) A notification altering the limits of a municipal borough shall clearly set forth the local limits of the area to be included in or excluded from such municipal borough.

Property and rights of municipalities which have ceased to exist to vest in the Provincial Government.

[4][(*4*) Save where it is otherwise provided in this Act, when a municipality ceases to exist on account of its members ceasing to hold office, or for any other reason whatsoever, the property and rights vested in the municipality shall, subject to all charges and liabilities affecting the same, vest in His Majesty, and the proceeds thereof, if any, shall be expended under the orders of [1][the Provincial Government] for the benefit of the local area in which such municipality had jurisdiction.]

Bom. III of 1901 not to apply to municipal boroughs.

5. (*1*) The provisions of the Bombay District Municipal Act, 1901, shall not apply to any municipal district included or hereafter included in Schedule I from the date of such inclusion : Bom. III of 1901.

Provided that—

(*a*) references in any other enactment or in any instrument to the Bombay District Municipal Act, 1901, shall, unless a different intention appears, be construed in respect of any municipal borough as references to this Act, Bom. III of 1901.

Continuance of acts, notifications, etc. in respect of boroughs.

(*b*) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under the Bombay District Municipal Act, 1901, in respect of a municipal district included or hereafter included in Schedule I, so far as is not inconsistent with the provisions of Bom. III of 1901.

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*

[3] The words " other than the municipal district of Karachi " were repealed by Bom. 17 of 1933, s. 4.

[4] This sub-section was inserted by Bom. 1 of 1927, s. 2.

this Act, and any appointment, notification, order, scheme, rule, by-law or form made or issued under any other law in respect of such district shall continue in force and be deemed to have been made, issued or imposed under the provisions of this Act or of such other law in respect of the municipal borough constituted by such inclusion unless and until it is superseded by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made or issued under this Act or such other law.

Municipal boroughs excluded from Schedule I.

(2) From the date specified in a notification under sub-section (1) of section 4, excluding a municipal borough from Schedule I, it shall cease to be a municipal borough and the provisions of the Bombay District Municipal Act, 1901, shall apply to it.

Bom. III of 1901.

Transfer of rights, etc., on inclusion in Schedule I.

6. The property, rights and liabilities of the municipality in a municipal district included or hereafter included in Schedule I shall vest in the municipality of the municipal borough constituted by such inclusion, from the date of such inclusion.

Preliminaries before notification.

7. (1) Not less than three months before the publication of a notification under section 4 [1][the Provincial Government] shall cause to be published in the [2][*Official Gazette*] in English, and in at least one of the local newspapers (if any) in the vernacular language of the district in which the municipal borough or municipal district is situate, and to be posted up in conspicuous places in such municipal borough or municipal district in such vernacular language, a proclamation announcing that it is proposed to include in or exclude from Schedule I the municipal district or municipal borough, as the case may be, or to alter the limits of the municipal borough in a certain manner, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor in writing, to the Collector within two months from the date of the said proclamation ; and whenever it is proposed to add to or exclude from a municipal borough any inhabited area, it shall be the duty of the municipality also to cause a copy of such proclamation to be posted up in conspicuous places in such area.

(2) The Collector shall, with all reasonable despatch, forward every objection so submitted to [1][the Provincial Government].

(3) No such notification as aforesaid shall be issued by [1][the Provincial Government] unless the objections, if any, so submitted are in its opinion insufficient or invalid.

(2) *Municipalities.*

Incorporation of municipalities.

8. In every municipal borough there shall be a municipality, and every such municipality shall be a body corporate by the name of [3][" the..... Borough Municipality "], and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name through its Chief Officer.

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid*

[3] The words " the ..... Borough Municipality " were substituted for the words " the municipality of..... " by Bom. 24 of 1936, s. 2, Sch.

(3) Election of Councillors.

Municipalities to consist of elected councillors.

9. (*1*) Every such municipality shall consist of—

(*a*) elected councillors ; and

[1]* * * *

Failure to elect.

(*2*) Any vacancy due to failure to elect the full number of councillors which under this section might be elected and any vacancy due to failure to elect a councillor under section 29 may, notwithstanding anything in this Act, be filled up by nomination by [2][the Provincial Government].

Continuance of councillors holding office at commencement of Act. Election in case of non-continuance.

(*3*) Councillors elected or nominated under the Bombay District Municipal Act, 1901, and holding office in a municipal district included or hereafter included in Schedule I, immediately prior to such inclusion, shall be deemed to have been elected or nominated, as the case may be, under this Act : provided that where [2][the Provincial Government] has directed that all the councillors shall be elected, councillors nominated under the Bombay District Municipal Act, 1901, shall not be deemed to have been nominated under this Act, and councillors shall be elected under the provisions of this Act in place of such nominated councillors. Bom. III of 1901. Bom. III of 1901.

The Provincial Government shall determine number of councillors ; and make rules for regulating elections.

10. (*1*) [2][The Provincial Government] shall, from time to time, generally or specially for each municipality,—

(*a*) determine the number of councillors ;

[3]* * *

(*c*) make rules consistent with this Act prescribing the [4][number and extent of the wards to be constituted in each municipal borough, the number of councillors to be elected by each ward and the number of seats, if any, to be reserved for the representation of women, Muslims, Harijans, backward tribes, Anglo-Indians and Indian Christians], providing for the preparation and revision of the lists of voters from time to time, fixing the date after which no application for enrolment in any such list under preparation or revision shall be received, declaring the manner in which the right to vote of any undivided family, or any company or firm, or any other association or body of individuals or any trustees of any building or land being two or more in number entered in such list, may be recorded and exercised, and prescribing the restrictions, if any, on the number of votes which a voter may give ;

determining the manner in which and the authority by whom any objection to such lists in regard to the names entered therein or omitted therefrom may be heard and decided, and to what judicial authority the appeals as to such entries and omissions shall lie ;

prescribing the date for the publication of the Municipal Election Roll ;

regulating generally such elections :

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[1] The clause (*b*) and provisos to the sub-section were deleted by Bom. 9 of 1938, s. 6.

[2] The words "the Provincial Government" were substituted for the words "the Government", by the Adaptation of Indian Laws Order in Council.

[3] Clause (*b*) was deleted by Bom. 9 of 1938, s. 7 (*1*).

[4] These words were substituted for the original by Bom. 41 of 1947, s. 5.

[1][Provided that rules so made shall not provide for the reservation of seats in any ward for the representatives of any tribe, caste or community—

(*a*) other than—

(*i*) a backward tribe,

(*ii*) Harijans, or

(*iii*) any community, the members of which are under the Fifth Schedule to the Government of India Act, 1935, entitled to separate constituencies for electing representatives to the Bombay Legislative Assembly, and

(*b*) unless the Provincial Government is of opinion that the reservation of such seats is necessary having regard to the population of such tribe, caste or community in the municipal borough ;

[2][*Explanation.*—For the purpose of this section—

(*1*) A Harijan shall mean a member of a scheduled caste as defined in the Government of India (Scheduled Castes) Order, 1936 ;

(*2*) A backward tribe shall mean a tribe specified in Part II of the Thirteenth Schedule to the Government of India (Provincial Legislative Assemblies) Order, 1936.]

[3](*3*) 'Anglo-Indian' means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is a native of India ;

(*4*) 'Indian Christian' means a person who is a native of India and who professes any form of the Christian religion and whose father or any of whose other male progenitors in the male line is not or was not of European descent.]

[4]* * *

(*2*) [5][The Provincial Government] may from time to time delegate to the Commissioner any of the powers granted to [5][the Provincial Government] by clause (*c*) of sub-section (*1*), subject to such restrictions or conditions, if any, as [5][the Provincial Government] may attach to the delegation and such powers shall not be exercised without first receiving the opinion of the municipality concerned.

Persons qualified to vote or be candidates at a municipal election. Electoral roll of tax-payers.

11. (*1*) Save as provided in section 16, every person whose name is entered in the current electoral roll or part thereof, prepared for a municipal borough which constitutes or forms part of a [6][territorial constituency and published under rule 23 (3) of the Bombay Legislative Assembly Electoral (Preparation, Revision and Publication of Electoral Rolls) Rules, 1936, [7][and who, within the three months next preceding the last day before the preparation or revision of the list of voters upon which under the rules applications for enrolment may be received has paid all arrears of taxes, if any, due from him to the municipality,] shall be qualified to vote at a municipal election in such municipal borough.

(*2*) (*a*) Save as provided in section 16, every person—

(*i*) who in any municipal borough, on the first day of April next preceding the date of publication of the electoral roll, occupied as owner or tenant a house or building, or part of a house or building separately occupied, as a dwelling or for the purpose of any trade, business or profession of which the annual rental was not less than Rs. 12 or of which the capital value was not less than Rs. 200, or

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[1] This proviso was added by Bom. 9 of 1938, s. 7 (*2*) (*c*).

[2] This explanation was substituted for the original by Bom. 9 of 1938, s. 7 (*3*).

[3] This portion was added by Bom. 41 of 1947, s. 5.

[4] Sub-section (*1A*) was deleted, *ibid.*, s. 5.

[5] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[6] These words, figures and brackets were substituted for the words, figures and brackets "general constituency, and published under regulation 6 (3) of Part II of the Bombay Electoral Regulations 1923", by Bom. 24 of 1936, s. 2, Sch., with effect from the 31st day of March 1937.

[7] These words were inserted by Bom. 20 of 1944, s. 2, read with Bom. 1 of 1947, s.

[1](*ii*) who for a period of not less than three months next preceding the last day before the preparation or revision of the list of voters upon which under the rules applications for enrolment may be received has been assessed to the qualifying tax,

and who within the three months next preceding the date referred to in sub-clause (*ii*) has paid all arrears of taxes, if any, due from him to the municipality, shall be qualified to be entered in the list of voters for such municipal borough and to vote at a municipal election in such municipal borough.

Explanation.—A person shall be deemed to be in arrears of taxes if he has not paid within one month of the date of presentation any bill which has been presented under section 104:

Provided that a person who—

(*i*) is not a British subject or a subject of an Indian State, or

(*ii*) has been adjudged by a competent court to be of unsound mind, or

(*iii*) is under 21 years of age,

shall not be entitled to have his name entered in such electoral roll.

Explanation.—For the purposes of this section "the qualifying tax" means a tax, other than octroi, toll and the tax on vehicles and animals plying for hire or kept for the purpose of being let for hire, imposed in a municipal borough.

(*b*) The electoral roll of tax-payers for the time being in force shall be conclusive evidence for the purpose of determining whether any person is entitled to vote under the provisions of this sub-section at any election. If an electoral roll is not revised in accordance with the rules made under clause (*c*) of sub-section (*1*) of section 10, the roll shall continue in force until such revision has taken place.

(*3*) Every person so qualified to vote who for a period of not less than six months next preceding the last day before the preparation or revision of the electoral roll upon which under the rules applications for enrolment may be received has been resident in such borough or within seven miles of the limits thereof shall, subject to the provisions of this Act and of any other law for the time being in force, be qualified to be a candidate at a municipal election in such municipal borough.

Explanation.—For the purposes of this section a person shall be deemed to be resident in or within seven miles of the limits of a municipal borough if he ordinarily resides or has his principal place of residence in or within seven miles of the limits of such borough.

General disqualifications for becoming a councillor. Vacation of seat. Decision of Provincial Government in case of dispute.

12. (*1*) No person may become a councillor—

(*a*) who—

(*i*) has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, if and so long as such sentence has not expired, or

(*ii*) has been removed from office under section 27 and five years have not elapsed from the date of the expiry of such removal,

[1] This clause was substituted for the original clause by Bom. 4 of 1930, s. 4.

unless he has, by an order which [1][the Provincial Government] is hereby empowered to make, if it shall think fit, in this behalf, been relieved from the disqualification arising on account of such sentence or removal from office ; or

(*b*) who is an uncertificated bankrupt or an undischarged insolvent, or,

(*c*) who is a Judge.

(*2*) No person—

(*a*) who is a subordinate officer or servant of a municipality, or

(*b*) who, save as hereinafter provided, has directly or indirectly, by himself or his partner any share or interest in any work done by order of a municipality, or in any contract or employment with or under or by or on behalf of a municipality,

may be a councillor of such municipality.

(*3*) A person shall not be deemed to have incurred disqualification under clause (*b*) of sub-section (*2*) by reason of his—

(*i*) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same, or

(*ii*) having a share or interest in any joint-stock company or in any society, registered or deemed to be registered under the Co-operative Societies Act, which shall contract with or be employed by or on behalf of the municipality, or

(*iii*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the municipality may be inserted, or

(*iv*) holding a debenture or being otherwise interested in any loan raised by or on behalf of the municipality, or

(*v*) being professionally engaged on behalf of the municipality as a legal practitioner, or

(*vi*) having a share or interest in the occasional sale to the municipality of any article in which he regularly trades, or in the purchase from the municipality of any article, to a value in either case not exceeding in any official year five hundred rupees or such higher amount not exceeding two thousand rupees as the municipality with the sanction of [1][the Provincial Government] may fix in this behalf, or

(*vii*) having a share or interest in the occasional letting out on hire to the municipality or in the hiring from the municipality of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the municipality with the sanction of [1][the Provincial Government] may fix in this behalf, or

(*viii*) being a party to any agreement made with the municipality under the provisions of section 91 or of proviso (*a*) to sub-section (*1*) of section 194.

(*4*) If any person is elected or nominated as a councillor in contravention of the provisions of this section his seat shall [2][subject to the provisions of sub-section (*5*)] be deemed to be vacant.

[3][(*5*) In every case, the authority competent to decide whether a vacancy has occurred under this section shall be the Collector. The Collector may give his

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words, brackets and figure were inserted by Bom. 8 of 1939, s. 3.

[3] Sub-section (*5*) was substituted for the original, *ibid.*

decision either on an application made to him or on his own motion. Until the Collector decides that the vacancy has arisen, the seat of the person elected or nominated shall not, under sub-section (*4*), be deemed to have become vacant. An appeal shall lie against every such decision of the Collector to the Provincial Government and the orders passed by the Provincial Government in such appeal shall be final :

Provided that no order shall be passed under this sub-section by the Collector against any councillor without giving him a reasonable opportunity of being heard.]

Operation of lists.

13. (*1*) When, in accordance with rules framed under [1][clause (*c*) of sub-section (*1*) of section 10], a list of voters has been prepared or, upon a general revision, completed, a copy thereof signed by such person as may be designated in this behalf in the rules aforesaid, shall be the Municipal Election Roll. A new Election Roll shall be published in each year on such date as may be prescribed by the rules, and shall continue in operation for a period of twelve months from that day :

Provided that if a new Election Roll is not published in any year before the date prescribed, the roll then in operation shall continue in operation until the new roll is published.

Right to vote to depend on entry in roll.

(*2*) At every election of councillors every person enrolled in the Municipal Election Roll as for the time being in operation under sub-section (*1*), shall be deemed to be entitled to vote, and every person not so enrolled shall be deemed to be not entitled to vote.

Enrolment in Municipal Election Roll necessary for elected councillor. Representative of an Association.

14. A person shall not be qualified to be elected a councillor unless he is enrolled in the Municipal Election Roll :

Provided that if any company, body corporate, or other association of individuals is enrolled in the Municipal Election Roll, any one person duly authorized in this behalf by a resolution of such company, body or Association to represent such association shall be deemed to be qualified to be elected a councillor.

Determination of validity of elections.

15. (*1*) If the validity of any election of a councillor is brought in question by any person qualified to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, apply to the District Court of the district within which the election has been or should have been held, for the determination of such question :

[2][Provided that in the case of any election of a councillor of a municipality in any area specified in Part II of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, this sub-section shall be construed as if for the words " of the district within which the election has been or should have been held " the words " of Thana " were substituted.] Bo XI of 19

Powers of Judge holding inquiry.

(*2*) An inquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge, appointed by [3][the Provincial Government] either specially for the case or for such cases generally ; and such Judge may, after such inquiry as he

[1] These words, figures, letter and brackets were substituted for the original words by Bom. 10 of 1926, s. 2, which takes effect from the date when the original Act came into operation.

[2] This proviso was added by Bom. 17 of 1945, s. 9 and Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

[3] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

deems necessary and subject to the provisions of sub-section (*3*), pass an order confirming or amending the declared result of the election, or setting the election aside. For the purposes of the said inquiry the said Judge may summon and enforce the attendance of witnesses and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such inquiry shall be paid; such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure. The decision or order shall be conclusive.

V of 1908.

[1][(*2A*) All applications received under sub-section (*1*)—

(*a*) in which the validity of the election of councillors elected to represent the same constituency is in question shall be heard by the same Judge; and

(*b*) in which the validity of the election of the same councillor elected to represent the same constituency is in question shall be heard together.

Explanation.—For the purposes of this sub-section a constituency shall mean each ward or a public body or association constituted or entitled to elect councillors.

V of 1908.

(*2B*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit (*a*) any application to be compromised or withdrawn or (*b*) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.]

Declaration in case of corrupt practice by a candidate.

(*3*) (*a*) The Judge, if satisfied that a candidate has, within the meaning of sub-section (*4*), committed any corrupt practice for the purpose of the election, shall declare the candidate disqualified both for the purpose of that election and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

Scrutiny of votes and declaration in other cases.

(*b*) If in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected:

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

What is a corrupt practice.

(*4*) A person shall be deemed to have committed a corrupt practice within the meaning of sub-section (*3*)—

(*i*) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any gratification or holds out any promise of individual profit, or holds out any threat of injury to any person, or

(*ii*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote,

(*iii*) who pays or promises to pay any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote,

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[1] Sub-sections (*2A*) and (*2B*) were inserted by Bom. 14 of 1936, s. 2.

(*iv*) who hires, employs, borrows or uses for the purposes of the election any boat, vehicle or animal, usually kept for letting on hire or for the conveyance of passengers by hire :

Provided that any elector may hire any boat, vehicle or animal or use any boat, vehicle or animal which is his own property to convey himself to or from the place where the vote is recorded ;

Candidates when deemed to have committed corrupt practice.

and a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 1.—For the purposes of this section the term " gratification " is not restricted to pecuniary gratification or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward.

Explanation 2.—The expression " a promise of individual profit "—

(*i*) does not include a promise to vote for or against any particular measure which may come before a municipality for consideration, but

(*ii*) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

Mere irregularities and informalities not to invalidate election.

(*5*) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under clause (*c*) of sub-section (*1*) of section 10, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

Explanation.—The expression " error " in this clause does not include any breach of or any omission to carry out or any non-compliance with the provisions of this Act or the rules made thereunder whereby the result of the election has been materially affected.

Disqualification of persons committing corrupt practice.

(*6*) If the Judge sets aside an election under clause (*a*) of sub-section (*3*), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section, to be disqualified from being a candidate in that or any other municipal borough or district for a term of years not exceeding seven, and the decision of the Judge shall be conclusive : provided, however, that such person may, by an order which [1][the Provincial Government] is hereby empowered to make, if it shall think fit, in that behalf, be at any time relieved from such disqualificaton : provided further that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration should not be made.

Voter disqualified for corrupt practice.

16. Any person who has been convicted of an offence under section 171-E or 171-F of the Indian Penal Code, or has been disqualified from exercising any electoral right for a period of not less than five years on account of malpractices in connection with an election, shall be disqualified for five years from the date of such conviction or disqualification from voting at any municipal election in any municipal borough or district or at any election to a local board constituted under the Bombay Local Boards Act, 1923.

XLV of 1860.

Bom. VI of 1923.

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

17. The names of all councillors, finally elected to any municipality and the names of the nominated councillors, if any, appointed thereto shall be published, as soon as conveniently may be, in the [1][*Official Gazette*]. Publication of names of councillors in the *Official Gazette*.

(4) Appointment of presidents and vice-presidents.

18. (*1*) A municipality shall be presided over by a president who shall be elected by the councillors from among their number. There shall be a vice-president similarly elected for each municipality. No salaried [2][servant of the Crown] shall be eligible for election as president or vice-president of a municipality and the election of any such person shall be void. Election of president and vice-president. Continuance of president or vice-president holding office at the commencement of this Act.

(*2*) A president or vice-president holding office in a municipal district, included or hereafter included in Schedule I, at the time of such inclusion shall be deemed to have been elected under this section and shall continue to hold the office of president or vice-president as the case may be until a fresh election has been held under the provisions of this Act.

19. (*1*) Save as otherwise provided in this Act a president or vice-president shall hold his office for such term, not less than one year and not exceeding three years, as the municipality shall, previous to the election of the president or vice-president determine, or until the expiry within the said term of his term of office as councillor, but shall be eligible for re-election : Term of office of president and vice-president.

Provided that the term of office of such president or vice-president shall be deemed to extend to and expire with the date on which his successor is elected.

(*2*) On the expiry of the term of office of a municipality the president and vice-president shall continue to carry [3][on] the current administrative duties of their offices until such time as a new president and vice-president shall have been elected and shall have taken over charge of their duties : President and vice-president to continue to carry out certain duties until their successors take over charge.

[4]* * *

[5][**19A.** (*1*) When a new municipality is constituted after a general election the Collector shall call a meeting for the election of a president and vice-president. The meeting shall be called within twenty-five days from the date on which the names of the councillors of the new municipality are published in the *Official Gazette* under section 17, but shall not be held on a date prior to the date on which the term of office of the retiring councillors prescribed or extended, as the case may be, under sub-section (*1*) of section 25 expires, or on which the municipality is re-established under sub-section (*3*) of section 219 after dissolution or under sub-section (*5*) of section 219 after supersession, as the case may be. Election of president and vice-president.

(*2*) The meeting called under sub-section (*1*) shall, until the municipality elects its own chairman for that meeting, be presided over by one of the persons appointed by the Collector in the manner hereinafter provided.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] The words "servant of the Crown" were substituted for the words "servant of Government", *ibid.*

[3] The word "on" was substituted for the word "out" by Bom. 19 of 1935, s. 2 (*1*) (*a*).

[4] The proviso and sub-section (*3*) were deleted by Bom. 8 of 1939, s. 3 (*b*) (*i*) and (*ii*).

[5] Section 19A was inserted, *ibid.*, s. 3 (*c*).

(*3*) For the purposes of sub-section (*2*) the Collector shall select three persons who shall be councillors of the new municipality after obtaining their consent in writing to the selection, and shall arrange their names in a list in order of preference. The retiring president, if any, and the retiring vice-president, if any, shall, if they consent, be among the persons selected and shall, if both consent, be placed respectively first and second in the list. If either the retiring president or the retiring vice-president alone consents, he shall be placed first in the list. The person whose name is placed first in the list shall preside at the meeting called under sub-section (*1*), but if such person is absent or is unable or fails for any reason to preside, the person whose name is placed second in the list shall preside. If the persons whose names are placed first and second in the list are both absent or are unable or fail for any reason to preside, the person whose name is placed third shall preside. If none of the three persons named in the list is present or able or willing to preside, the meeting shall not be held and the Collector shall, as soon as may be, call a fresh meeting, and shall select three other persons in the manner prescribed above, one of whom shall preside thereat in the order specified above.

(*4*) If in the election of a chairman for the meeting called under sub-section (*1*) there is an equality of votes, the result of the election shall be decided by lot to be drawn in the presence of the person presiding in such manner as he may determine. As soon as a chairman is elected, he shall take the chair, and the meeting shall proceed to elect the new president. The new president shall take the chair as soon as he is elected and the meeting shall then proceed to elect the new vice-president.]

Resignation of president and vice-president.

20. A president may resign his office by tendering his resignation in writing to the municipality; and such resignation shall take effect on its acceptance by the municipality. Such acceptance shall be published in the [1][*Official Gazette*]. A vice-president may resign his office by tendering his resignation in writing to the president.

Liability of president and vice-president to removal.

21. A president or vice-president shall be removable from his office as such president or vice-president by the municiplity by a resolution passed to that effect, provided that three-fourths of the whole number of the councillors of the municipality vote in favour of such resolution and provided, further, that before such resolution is passed the president or vice-president is given a reasonable opportunity of showing cause why such resolution should not be passed.

Consequences of absence of president or vice-president without leave.

22. (*1*) Every president who for a period exceeding three months and every vice-president who for a period exceeding one month, shall absent himself from the municipal borough in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president unless leave so to absent himself has been granted by the municipality.

Limit to grant of leave, and arrangement pending absence of vice-president

(*2*) Leave under sub-section (*1*) shall not be granted for a period exceeding six months, and whenever leave is granted to a vice-president under that sub-section, a councillor shall be elected by the councillors from among their number to perform all the duties and exercise all the powers of the vice-president, during the period for which such leave is granted.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

Vacancies in office of president and vice president to be filled up.

23. (*1*) In the event of the non-acceptance of office, death, resignation or removal from office of a president or of a vice-president or of his election being void, or of his becoming incapable of acting in such office or having ceased to be a president or a vice-president under sub-section (*1*) of section 22 or a councillor under sub-section (*1*) of section 28, previous to the expiry of his term of office as president or vice-president, the vacancy shall be filled up [1][within twenty-five days from the occurrence of the vacancy] by the election of some other councillor thereto.

[2][(*1A*) In the event of the expiry of the term of office of the president or vice-president determined by the municipality under sub-section (*1*) of section 19, unless section 19A applies, a new president or vice-president, as the case may be, shall be elected within twenty-five days from the date of such expiry.]

[3][(*2*) The provisions of section 19A shall be applicable, so far as may be, to the calling of a meeting and the procedure to be followed at such meeting for the election of a president under sub-section (*1*) [4][or (*1A*)].]

23A. [*Collector to call meeting for election of president or vice-president in certain cases*]: *Deleted by Bom. 8 of 1939, s. 3 (e).*

(*5*) *Term of office of councillors.*

Term of office of councillors holding office prior to commencement of Act; and of councillors then elected.

24. (*1*) Save as otherwise provided in this Act councillors deemed to have been elected or nominated under sub-section (*3*) of section 9 shall continue to hold office for the term for which they were elected or nominated under the Bombay District Municipal Act, 1901. Councillors elected under the said sub-section shall hold office for the same period as councillors deemed to have been elected as aforesaid.

Bom. III of 1901.

[5][Provided that—

(*a*) [6][the Provincial Government] may, by a notification in the [*Official Gazette*] and subject to the other provisions of this Act, extend the term of office of any municipality for a period up to a date not later than the thirty-first day of December [8][1928.];

(*b*) any notification issued under proviso (*a*) after the expiry of the term of office of any municipality constituted under the Bombay District Municipal Act, 1901, and before the thirty-first day of May 1927 shall be deemed to have been issued and to have had effect as from the date of expiry of the term of office of such municipality; and any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under the Bombay District Municipal Act, 1901, by any such municipality so far as is not inconsistent with the provisions of this Act shall be deemed to be valid and to have been made, issued or imposed under this Act and shall continue in force unless and until it is superseded by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under this Act.]

Bom. III of 1901.

Bom. III of 1901.

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[1] These words were inserted by Bom. 19 of 1935, s. 3 (*1*).
[2] This sub-section was inserted by Bom. I of 1947, s. 6 (*a*).
[3] Sub section (*2*) of section 23 was substituted for the original by Bom. 8 of 1939, s. 3 (*d*).
[4] This word, brackets, figure and letter were added by Bom. 1 of 1947, s. 6 (*b*).
[5] This proviso was added by Bom. 1 of 1927, s. 3.
[6] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[7] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*
[8] These figures were substituted for the original figures "1927" by Bom. 12 of 1927, s. 2.

(2) The provisions of clause (*b*) of sub-section (2) of section 25 shall apply to such councillors.

Validation of acts of expired municipalities.

[1][**24A.** Any municipality of a municipal borough included in Schedule I which has not been constituted in accordance with the provisions of this Act and the rules made thereunder shall, save where it is otherwise provided in this Act, be deemed not to have been duly constituted and its members, both elected and nominated, shall be deemed not to have been duly elected and nominated.]

Term of office of councillors after general election.

25. (*1*) Councillors nominated or elected at a general election under this Act shall, save as otherwise provided in this Act, hold office for a term of three years, extensible by order of [2][the Provincial Government] to a term not exceeding in the aggregate four years, if on any occasion [2][the Provincial Government] shall think fit, for reasons which shall be notified together with the order in the [3][*Official Gazette*] so to extend the same :

Provided that before such order is made [2][the Provincial Government] shall invite and consider objections, if any, from the voters entitled to vote at the municipal election in the municipal borough concerned.

(*2*) (*a*) The term of office of such councillors shall be deemed to commence on the date of the first general meeting which shall be held after such election and after the expiry of the term of the outgoing councillors hereinbefore provided and at which a quorum shall be present; and

(*b*) the term of office of the outgoing councillors shall be deemed to extend to and expire with the day before the date of such meeting.

Resignation of councillors.

26. Any councillor may resign his office by giving notice in writing to that effect to the president.

Liability of councillors to removal from office.

27. [2][The Provincial Government] if it thinks fit, on the recommendation of the municipality supported by at least two-thirds of the whole number of councillors may remove any councillor elected or nominated under this Act, if such councillor has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct or has become incapable of performing his duties as a councillor :

Provided that no resolution recommending the removal of any councillor shall be passed by the municipality unless the councillor to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made.

Disabilities from continuing a councillor.

28. (*1*) If any councillor during the term for which he has been elected or nominated—

(*a*) becomes subject to any disqualifications specified in section 12, or

(*b*) acts as a councillor in any matter—

(*i*) in which he has directly or indirectly, by himself or his partner, any such share or interest as is described in clause (*i*), (*ii*), (*iii*), (*vi*) or (*viii*) of sub-section (*3*) of section 12, whatever may be the value of such share or interest, or

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[1] S. 24A was inserted by Bom. 1 of 1927, s. 4.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*ii*) in which he is professionally interested on behalf of a principal or other person, or

(*iii*) in which he is engaged at the time in any case against the municipality, or

(*c*) departs beyond the limits of the Presidency with the declared or known intention of absenting himself continuously for a period exceeding six months, or

(*d*) not being a president or vice-president or a salaried [1][servant of the Crown], absents himself during four successive months from the meetings of the municipality, except with the leave of the municipality,

(*e*) fails to pay any arrears of any kind due by him to the municipality within three months after a special notice in this behalf has been served upon him,

he shall [2][subject to the provisions of sub-section (*2*)] be disabled from continuing to be a councillor and his office shall become vacant.

[3][(*2*) In every case, the authority competent to decide whether a vacancy has arisen shall be the Collector. The Collector may give his decision either on an application made to him by any person or on his own motion. Until the Collector decides that the vacancy has arisen, the councillor shall not be disabled under sub-section (*1*) from continuing to be a councillor. An appeal shall lie against every such decision of the Collector to the Provincial Government and the orders passed by the Provincial Government in such appeal shall be final:

Provided that no order shall be passed under this sub-section by the Collector against any councillor without giving him a reasonable opportunity of being heard].

Casual vacancies how to be filled up

29. Where a vacancy occurs through the non-acceptance of office by a person elected or appointed to be a councillor, or through such person being disqualified for becoming a councillor, or through any election being set aside under the provisions of sub-section (*2*) of section 15, or through the death, resignation, removal or disability of a councillor previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or nomination as the case may be of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or nominated would have held it if the vacancy had not occurred. [4][Provided that no election shall be held to fill up a vacancy occurring within four months of the date on which the term of the municipality expires].

A councillor whose office has become vacant under section 28 shall, if his disability has ceased, be eligible for re-election.

(*6*) *Municipal Government. Functions of President and Vice-President.*

Municipal government vests in the municipality.

30. (*1*) Except as in this Act otherwise expressly provided, the municipal government of a municipal borough vests in the municipality.

Executive power vests in the Chief Officer.

(*2*) The executive power for the purpose of carrying out the provisions of this Act vests in the Chief Officer appointed under section 33, subject, wherever it is in this Act expressly so directed, to the approval or sanction of the municipality or of the

[1] The words "servant of the Crown" were substituted for the words "servant of the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words, brackets and figure were inserted by Bom. 8 of 1939, s. 3 (*f*) (*i*).

[3] Sub-section (*2*) of section 28 was substituted for the original, *ibid.*, s. 3 (*f*) (*ii*).

[4] This proviso was added by Bom. 19 of 1935, s. 5.

standing committee and subject also to all other restrictions, limitations and conditions imposed by this Act and the rules made thereunder.

Function of president.

31. It shall be the duty of the president of a municipality—

(*a*) to preside, unless prevented by reasonable cause, at all meetings of the municipality, and subject to the provisions of the rules for the time being in force under clause (*a*) of section 58 to regulate the conduct of business at such meetings;

(*b*) to watch over the financial and executive administration of the municipality and to perform such executive functions as may be allotted to him by or under this Act;

(*c*) to exercise supervision and control over the acts and proceedings of all officers and servants of the municipality in matters of executive administration and in matters concerning the accounts and records of the municipality; and, subject to the rules of the municipality at the time being in force, to dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances;

(*d*) the president of a municipality may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the municipality, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund:

Provided that—

(*a*) he shall not act under this section in contravention of any order of the municipality prohibiting the execution of any particular work or the doing of any particular act, and

(*b*) he shall report forthwith the action taken under this section and the reason therefor to the standing committee at its next meeting.

Functions of vice-presidents.

32. It shall be the duty of the vice-president of a municipality—

(*a*) in the absence of the president and unless prevented by reasonable cause, to preside at the meetings of the municipality and he shall when so presiding exercise the same authority as is vested in the president under clause (*a*) of section 31;

(*b*) to exercise such of the powers and perform such of the duties of the president as the president may from time to time depute to him; and

(*c*) pending the election of a president, or during the absence of the president, to exercise the powers and perform the duties of the president.

(7) *Appointment and powers of chief and other municipal officers.*

Appointment of Chief Officer: Conditions of tenure.

[1][**33.** (*1*) There shall be a chief officer in every municipal borough who shall be a graduate of a recognized university or a qualified engineer appointed by the municipality:

Provided that a person permanently appointed as Chief Officer under the Bombay District Municipal Act, 1901, before the coming into operation of this Act [2][or a person temporarily appointed as chief officer under this Act for a period not exceeding two months in the aggregate in a year] need not be a graduate of a recognised university or a qualified engineer: Bom. III of 1901.

[1] This section was substituted for the original section by Bom. 1 of 1926, s. 3, which takes effect from the date when the original Act came into operation.

[2] These words were inserted by Bom. 4 of 1930, s. 4.

[1][Provided further that, with the previous sanction of [2][the Provincial Government], a person who is not a graduate of a recognised university or a qualified engineer, may be appointed Chief Officer of a municipal borough with an annual income of less than two lacs of rupees.]

(*2*) No Chief Officer shall be removed from office, reduced or suspended unless by the votes of at least two-thirds of the whole number of councillors; and no such officers shall be punishable with fine.]

Powers and duties of Chief Officer.

34. (*1*) The Chief Officer shall—

(*a*) subject to the general control of the president, watch over the financial and executive administration of the municipality and perform all the duties and exercise all the powers specifically imposed or conferred upon him by, or delegated to him under this Act;

(*b*) subject to the provisions of sub-section (*4*), exercise supervision and control over the acts and proceedings of all officers and servants of the municipality as regards appointments referred to in clause (*c*) in matters of executive administration and in matters concerning the accounts and records of the municipality; and subject further to the rules of the municipality for the time being in force, dispose of all questions relating to the service of the officer and servants and their pay, privileges, leave and allowances;

(*c*) subject to the provisions of sub-section (*4*) appoint to any post the monthly salary for which as fixed by rules made under clause (*c*) of section 58 does not exceed Rs. 50 and to any other post the appointment to which has not been otherwise provided for by such rules;

(*d*) with the permission of the President furnish to the Collector, or such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the municipality;

(*e*) subject to the provisions of this Act and of the bye-laws for the time being in force thereunder, grant, give and issue under his signature all licences and permissions which may be granted or given by the municipality or the standing committee under this Act, other than licences for markets or slaughter-houses;

(*f*) receive and recover and credit to the municipal fund all fees payable for licences and permissions granted or given by him under the powers aforesaid;

(*g*) subject to the orders of the president, or of the standing committee or of the municipality, as the case may be, take prompt steps to remove any irregularity pointed out by the auditor appointed under section 210;

(*h*) report to the President and the standing committee all cases of fraud, embezzlement, theft, or loss of municipal money and property.

(*2*) The Chief Officer may—

(*a*) subject to the provisions of sub-section (*4*) fine, reduce, suspend or dismiss any municipal servant whose salary does not exceed Rs. 30 and subject further to the provisions of the rules for the time being in force, any other municipal officer or servant, not being the health officer, engineer or auditor of the municipality:

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[1] This proviso was added by Bom. 7 of 1932, s. 2.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Provided that in respect of any punishment other than a fine not exceeding one week's salary his order shall be subject to an appeal either to the standing committee or, if the rules for the time being in force so provide, to the municipality;

(*b*) subject to the provisions of this Act and of the by-laws for the time being in force thereunder, at his discretion suspend, withhold or withdraw any licence, in any case in which he is empowered to grant or give a licence and in which the municipality or the standing committee may suspend, withhold or withdraw such licence;

(*c*) with the sanction of the standing committee, delegate any of his powers or duties to any municipal officer or servant:

Provided that such delegation shall be subject to such limitations, if any, as may be prescribed by the standing committee, and also to control and revision by the Chief Officer.

(*3*) The Chief Officer shall at any time supply any return, statement, account or report or a copy of any document in his charge, called for by the municipality or the standing committee and shall comply with any orders passed by the municipality or the standing committee thereon.

(*4*) The powers conferred on the municipality by or under any of the provisions of this Act to appoint, grant leave of absence to, punish or dismiss any master, teacher or other person employed in a primary or other school vested in or maintained by the municipality, or employed in any educational institution aided by the municipality, shall not be exercised by the Chief Officer.

Appointment of health officer and engineer.

(*5*) (*a*) A municipality may appoint a health officer and an engineer or any one or more of such officers, whether temporarily or permanently.

(*b*) No such officer shall be removable from office, reduced or suspended unless by the assent of at least two-thirds of the whole number of councillors, and no such officer shall be punishable with fine.

Power of Provincial Government to require the removal of a chief officer, health officer or an engineer.

[1][**34A.** (*1*) Notwithstanding anything contained in section 33 and sub-section (*5*) of section 34, it shall be lawful for [2][the Provincial Government] on the recommendation of any municipality supported by a resolution passed by a majority of the councillors present at a special general meeting called for the purpose to make in its discretion an order vetoing the continuance in office of any person holding the appointment of a chief officer, a health officer or an engineer:

Provided that—

(*a*) notwithstanding anything contained in sub-section (*7*) of section 35, no resolution shall be passed by such meeting unless a quorum shall have been present throughout; and

(*b*) no order shall be made under this section unless an inquiry has been made into the matter by such person and in such manner as [2][the Provincial Government] may direct and unless the person affected by the order has been given a reasonable opportunity at the inquiry of explaining the allegations made against him.

(*2*) The tenure of office by any person whose continuance in office is vetoed under sub-section (*1*) shall cease and determine on and from such date as may be appointed by [2][the Provincial Government], in that behalf].

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[1] This section was inserted by Bom. 3 of 1930, s. 2.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

CHAPTER III.

CONDUCT OF BUSINESS.

(*1*) *Municipal Meetings.*

35. The following provisions shall be observed with respect to the meetings of a municipality :— Provisions in regard to meetings of a municipality.

(*1*) There shall be held four ordinary general meetings in each year for the disposal of general business, on or about the tenth day of the months of January, April, July and October, respectively, and such other ordinary general meetings as the president may find necessary. It shall be the duty of the president to fix the dates for all ordinary general meetings. Ordinary general meetings.

(*2*) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the councillors and for a date not more than fifteen days after the presentation of such request, call a special general meeting. If the president fails to call a special general meeting as provided in this clause the vice-president may call such meeting for a day not more than thirty days after the presentation of such request. Special general meetings.

(*3*) Seven clear days, notice of an ordinary general meeting, and three clear days' notice of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat shall be served upon the councillors, and posted up at the municipal office or the local kacheri or some other public building in the municipal borough and also published in a local vernacular newspaper having a large circulation if such exists. The said notice shall include any motion or proposition whereof a councillor shall have given written notice, not less than ten clear days previous to the meeting, of his intention to bring forward thereat, and in the case of a special general meeting, any motion or proposition mentioned in any written request made for such meeting. Notice of meetings.

(*4*) Every meeting of a municipality shall, except for special reasons to be mentioned in the notice convening the meeting, be held in the buildings used as a municipal office by such municipality. Meetings to be held at municipal office.

(*5*) Every meeting shall, in the absence of both the president and vice-president be presided over by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion, and such chairman shall exercise thereat the powers vested in the president by clause (*a*) of section 31. Absence of the president and the vice-president.

(*6*) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the municipality such as should be held in private : Meeting must ordinarily be open to the public.

Provided that the said authority may at any time cause any person to be removed who interrupts the proceedings :

Provided further that the presiding authority may cause to be removed from the meeting any councillor who does not obey his ruling.

(*7*) If less than one-third of the whole number of councillors be present at a meeting at any time from the beginning to the end thereof the presiding authority shall after waiting for not more than 30 minutes adjourn the meeting to such hour on the following or some other future day as he may reasonably fix; a notice of such adjournment shall be fixed up in the municipal office, and the Adjournment in absence of quorum.

business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not.

Business to be transacted at meetings and order of business.

(*8*) Except with the permission of the presiding authority which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any general meeting unless it has been entered in the notice convening such meeting or, in the case of a special general meeting, in the written request for such meeting. The order in which any business or proposition shall be brought forward at such meeting, shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

Minutes of proceedings.

(*9*) In every municipality there shall be kept in the vernacular language and if any councillor so desire, in English also, minutes of the names of the councillors and of the Government officers, if any, present under the provisions of sub-section (*14*), and of the proceedings at each general meeting, in a book to be provided for this purpose; such minutes shall be signed, as soon as practicable, by the presiding authority and shall at all reasonable times be open to inspection by any inhabitant of the municipal borough.

Questions decided by majority of votes.

(*10*) All questions shall be decided by a majority of votes of the councillors present and voting, the presiding authority having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules in that behalf for the time being in force under clause (*a*) of section 58.

Adjournments.

(*11*) Any general meeting may, with the consent of a majority of the councillors present, be adjourned from time to time to a later hour on the same day or to any other day; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

A notice of such adjournment posted in the Municipal office shall be deemed sufficient notice of the adjournment meeting.

Modification and cancellation of resolutions.

(*12*) No resolution of a municipality shall be modified or cancelled within three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of councillors and passed at a general meeting, whereof notice shall have been given fulfilling the requirements of sub-section (*3*) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

Notice of certain business to be given to the Government Executive Engineer or Educational Inspector.

(*13*) Except for reasons which the presiding authority deems urgent, no business relating to any work which is being executed for the municipality by a Government Executive Engineer or to any educational matter, shall be transacted at any meeting of a municipality unless, at least fifteen days previous to such meeting a letter has been addressed to the said Executive Engineer or to the Deputy Educational Inspector of the district, informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business.

Certain Government officers may attend and may be required to attend meetings.

(*14*) (*a*) The members of the Sanitary Board, and the Executive Engineer, Deputy Educational Inspector and the Assistant Director of Public Health, and the Civil Surgeon in a district when charged with any of the duties of a health officer therein, if not members of a municipality within the district, shall have the right of being present at any meeting of such municipality; with the consent of the municipality, each of them may take part at such meeting in the discussion or consideration of any question on which, in virtue of the duties of his office, he considers his opinion or the information which he can supply will be useful to such municipality:

Provided that the said officers shall not, unless they are members of the municipality be entitled to vote upon any such question.

(*b*) If it shall appear to a municipality that the presence of the Executive Engineer, Deputy Educational Inspector, Assistant Director of Public Health or Civil Surgeon of or in the district is desirable for the purpose aforesaid at any meeting of such municipality, it shall be competent to such municipality, by letter addressed to such officer not less than fifteen days previous to the intended meeting, to require his presence thereat; and the said officer unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting:

Provided that such officer on receipt of such letter may, if unable to be present himself, instruct a Deputy or Assistant or other competent subordinate as to his views, and may send him to the meeting as his representative instead of appearing thereat in person.

The Chief Officer to be present at every meeting of the municipality but not to vote upon or make any proposition.

36. The Chief Officer shall be present at every meeting of the municipality, and may with the permission of the president or of the municipality make an explanation or a statement of facts in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at such meeting.

(2) Committees.

Standing committee.

37. (*1*) In every municipality there shall be a committee called the standing committee consisting of such number of councillors not being more than twelve nor less than six, as the municipality may determine and elected by the municipality in accordance with rules framed under section 58, clause (*a*). The members so elected shall hold office for a period of one year.

Powers of standing committees.

(*2*) The standing committee shall exercise the functions allotted to it under this Act and subject to any limitations prescribed by the municipality especially in this behalf or generally by rules made under clause (*a*) of section 58, and to the provisions of section 34, [1][37A] and 38, shall exercise all the powers of the municipality.

Pilgrim Committee.

[2][**37A.** (*1*) In every municipality notified by [3][the Provincial Government] in this behalf there shall be a committee called the Pilgrim Committee consisting [4][of four councillors of whom one shall be the President of the municipality and the other three shall be elected in accordance with rules made under clause (*a*) of section 58 and of two persons appointed by the Provincial Government, both of whom may be salaried servants of the Crown].

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[1] These figures and letter were inserted by Bom. 4 of 1930, s. 4.

[2] This section was inserted, *ibid.*

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] These words, figures, letter and brackets were substituted for the original by Bom. 9 of 1938, s. 8.

(*2*) The members of the Pilgrim Committee shall hold office for the duration of the municipality and thereafter up to the date on which a new Pilgrim Committee is constituted in accordance with the provisions of this section.

In the case of supersession of the municipality or of the Pilgrim Committee, a new Pilgrim Committee shall be constituted by the Commissioner. Such Committee shall consist of six persons nominated by the Commissioner and shall continue until the municipality is re-established, and a new Pilgrim Committee is constituted in accordance with the provisions of this section, or, in case of supersession of the Pilgrim Committee, until the Pilgrim Committee is re-established.

(*3*) The Pilgrim Committee shall manage and administer the pilgrim fund established under proviso (*c*) to section 65 and shall exercise the powers and perform the duties of the municipality in respect of the said fund [1][and of works constructed or maintained out of the said fund and shall exercise such other powers and perform such other duties as may be allotted to it by the municipality] subject to such limitations and restrictions as may be prescribed by the municipality by rules made in this behalf under clause (*aa*) of section 58.

(*4*) All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable, so far as may be, to the members nominated on the Pilgrim Committee.

(*5*) In the event of the death, resignation, disqualification, disability or removal of a nominated member previous to the expiry of his term of office, the vacancy shall be filled up by the appointment of a person thereto who shall hold office so long only as the person in whose place he is appointed would have held it if the vacancy had not occurred.

(*6*) Section 45 shall not apply to the Pilgrim Committee ; provided that the municipality shall have power, at any time, to call for any extract from any proceedings of the Pilgrim Committee and for any return, statement of account or report concerning or connected with any matter with which the Pilgrim Committee deals and every such requisition shall, without unreasonable delay, be complied with by the Pilgrim Committee.

(*7*) The provisions of sections 210, 211 and 212 shall, so far as may be, apply to the Pilgrim Fund Account and the Pilgrim Committee shall, with respect to the preparation and submission to the municipality of its annual budget, follow the following procedure, namely :—

"The Pilgrim Committee shall in sufficient time submit its annual budget and all alterations therein to the municipality for consideration, and, if the municipality agree to it, for its incorporation in the general municipal budget. If the municipality do not agree to the budget as framed by the Pilgrim Committee, they shall return it to the Pilgrim Committee for reconsideration, either in whole or in part, together with any alterations, which they may recommend, and if the Pilgrim Committee agrees to those alterations, the budget so altered shall be incorporated in the general municipal budget. If the municipality and the Pilgrim Committee fail to reach an agreement, the budget with a statement of the points in disputes, shall be referred by the municipality to the Commissioner, whose decision on such points shall be final."

(*8*) The provisions of sections 213, 214, 215, 218 and 219 shall apply to a Pilgrim Committee and in their application to a Pilgrim Committee the said sections shall be construed so far as may be, as if for the word "municipality" occurring in the said sections the words "Pilgrim Committee" were substituted.]

[1] These words were inserted by Bom. 19 of 1935, s. 6.

Other executive committees.

38. (*1*) Notwithstanding anything contained in section 37 (*2*) other committees consisting of such number of councillors as the municipality may decide, may be appointed to exercise the powers and perform the duties of the municipality in respect of any purpose [1][not being, where a Pilgrim Committee is appointed, powers of duties referred to in section 37A]. The standing committee shall not exercise any powers or perform any duties which such committee has been appointed to exercise or, perform.

(*2*) The members of such committees shall be elected by the municipality in accordance with the rules framed under clause (*a*) of section 58 and such members shall hold office for a period of one year.

Consultative committees.

39. A municipality may from time to time appoint such other committees consisting of such councillors as it thinks fit, and may refer to such committees for inquiry and report or for opinion such special subjects relating to the purposes of this Act as the municipality shall think fit, and may at any time discontinue or alter the constitution of any such committee. The municipality may direct that the report of any such committee shall be made to the standing committee, or to a committee appointed under section 38, instead of to the municipality.

When persons other than councillors may serve on committees.

40. Notwithstanding anything contained in this Act, it shall be lawful for a municipality from time to time by a resolution supported by not less than one-half of the whole number of councillors, to elect as members of any committee appointed under section 38 or 39 any person of either sex, who is not a councillor but who in the opinion of such municipality possesses special qualifications for serving on such committee ; provided that the number of persons so elected on any committee shall not exceed one-third of the total number of the members of such committee.

Duties, etc., of such persons.

All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable so far as may be to such persons.

Casual vacancies ; re-eligibility.

41. A vacancy occurring in a standing committee or in a committee appointed under section 38 shall, as soon as possible, and a vacancy occurring in any other committee may, be filled up by the election of a member thereto subject to the same provisions as those under which the member whose place is to be filled up was elected. A person elected under this section shall hold office so long only as the person in whose place he is elected would have held it if the vacancy had not occurred. No person shall be ineligible at any time for election as a member of any such committee on the ground that he has previously been a member of that committee.

Ex-officio and appointed chairman.

42. (*1*) The president or vice-president, if elected a member of any committee, shall be *ex-officio* chairman thereof :

[2][Provided that in the case of a Pilgrim Committee the President shall be *ex-officio* Chairman thereof.]

Non-attendance of chairman.

(*2*) A municipality may appoint a chairman for a committee of which there is no *ex-officio* chairman.

(*3*) A committee of which there is an *ex-officio* chairman or a chairman appointed by the municipality, shall, at each meeting which such chairman does not attend, appoint from its members a chairman for such meeting.

(*4*) A committee, of which there is no *ex-officio* chairman or chairman appointed by the municipality, shall appoint from time to time a chairman from the members of such committee.

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[1] These words, figures and letters were inserted by Bom. 4 of 1930, s. 4.

[2] This proviso was added, *ibid.*

Procedure at meetings.

43. (*1*) The provisions of sub-sections (*4*), (*9*), (*10*) and (*14*) of section 35 shall be complied with in all proceedings of committees as if meetings of committees were included in all references to meetings of a municipality contained in those provisions, and as if for the word "municipality" where it occurs in the proviso to clause (*a*) of sub-section (*14*) of section 35, there was substituted the word "committee."

If the chairman of any committee has been absent from the municipal borough for a period exceeding fifteen days, the president or vice-president may, in his absence, call a meeting thereof:

Provided that, notwithstanding anything to the contrary contained in sub-section (*9*) of section 35, a committee may record its proceedings either in English or in the vernacular language, as it may think fit.

Meeting and adjournment of committees.

(*2*) A committee may meet and adjourn as it thinks proper; but the chairman of a committee may whenever he thinks fit, and shall, upon the written request of the president of the municipality or of not less than two members of the committee and for a date not more than two days after the presentation of such request, call a special meeting of such committee.

Quorum.

(*3*) No business shall be transacted at any meeting of a committee unless more than one-third of the members of the committee be present thereat.

Procedure by circular.

44. (*1*) Notwithstanding anything contained in section 43 the chairman of a committee may, instead of convening a meeting, circulate a written proposition of his own or of any other member of the committee or of any executive officer of the municipality for the observations and votes of the members of the committee.

Propositions when to be sent to Government officers for remarks.

(*2*) Previous to circulating any such proposition as aforesaid, the chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in sub-section (*13*) of section 35, shall obtain thereupon the remarks, if any, which any Government officer whose presence the municipality would be entitled to require under the provisions of clause (*b*) of sub-section (*14*) of section 35, desires to record.

Decisions how to be taken on propositions circulated.

(*3*) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members of the committee who vote upon it, unless a special meeting is convened to consider the said proposition.

And how to be recorded.

(*4*) Every decision arrived at by a committee under this section shall be recorded in the minute book.

Subordination of committees to municipality.

45. (*1*) A committee shall conform to any instructions that may from time to time be given to it by the municipality; the municipality may at any time call for any extract from any proceedings of any committee and for any return, statement, account or report in connection with any matter with which any committee has been authorized or directed to deal; every such requisition shall, without unreasonable delay, be complied with by the committee so called upon.

(*2*) Every order passed by a standing committee or by a committee appointed under section 38, other than orders under sub-section (*3*) of section 81, shall be subject to such revision and open to such appeal as may be required or allowed in respect thereof by any rules of the municipality for the time being in force under section 58.

Powers, duties and functions may be delegated to officers whose expenses may be paid.

46. Any powers or duties or executive functions which may be exercised or performed by or on behalf of the municipality may be delegated in accordance with rules to be made by the municipality in this behalf, to the president or to the vice-president or to the chairman of the school or other committee, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on the Chief Officer by this Act or on any committee by or under section 37, [1][37A] or 38, and each person, who exercises any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him therein.

(3) Joint transactions with other bodies.

Joint committees of local bodies. Joint levy of octroi.

47. *(1)* A municipality may from time to time—

(a) join with any other municipality or with any local board, cantonment authority, sanitary board, sanitary committee or committee appointed for a notified area or with any combination of such municipalities, boards, authorities or committees—

(i) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee; and

(ii) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work, and any power which might be exercised by any of such bodies; and

(iii) in framing and modifying rules for regulating the proceedings of any such committee in respect of the purpose for which the committee is appointed; and

(b) enter, subject to the sanction of [2][the Provincial Government], into an agreement with a municipality, cantonment authority, board, committee or combination as aforesaid for the levy of octroi duty and tolls whereby the octroi duties and tolls repectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

[3][*(1A)* Where a municipality has requested the concurrence of any other local authority under the provisions of sub-section *(1)* in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit, requiring the concurrence of such other local authority, not being cantonment authority, in the matter aforesaid; and such other local authority shall comply with such orders.]

(2) If any difference of opinion arises between bodies having joined or entered into an agreement for any purpose under this section, the decision thereupon of [2][the Provincial Government] or of such officer as it appoints in this behalf, shall be final:

[4][Provided that if one of the bodies concerned is a cantonment authority, any such decision shall be subject to the concurrence of the Central Government].

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[1] These figures and letters were inserted by Bom. 4 of 1930, s. 4.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] This sub-section was inserted by Bom. 14 of 1934, s. 4.

[4] This proviso was inserted by the Adaptation of Indian Laws Order in Council.

(4) Contracts.

Power of municipality to sell, lease and contract.

48. (*1*) A municipality shall be competent, subject to the restriction contained in sub-section (*2*), to lease, sell or otherwise transfer any moveable or immovable property which may, for the purposes of this Act have become vested in or been acquired by it; and so far as is not inconsistent with the provisions and purposes of this Act, to enter into and perform all such contracts as it may consider necessary or expedient in order to carry into effect the said provisions and purposes.

(*2*) In the case of every lease or sale of land under sub-section (*1*) of section 114 and of a lease of immovable property for a term exceeding seven years and of every sale or other transfer of such property, the previous sanction of the Commissioner is required.

Sanction by resolution at general meeting requisite to validity of certain contracts.

(*3*) In the case—

(*a*) of a lease for a period exceeding one year or of a sale or other transfer or contract for the purchase of any immovable property;

(*b*) of every contract which will involve expenditure not covered by a budget grant;

(*c*) of every contract the performance of which cannot be completed within the official year current at the date of the contract;

the sanction of the municipality by a resolution passed at a general meeting is required.

Execution of contracts on behalf of municipality.

(*4*) In a municiplity—

(*a*) every contract under or for any purpose of this Act shall be made on behalf of the municipality by the Chief Officer;

(*b*) no such contract for any purpose which the Chief Officer is not empowered by this Act to carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given;

(*c*) no contract which will involve an expenditure exceeding three hundred rupees shall be made by the Chief Officer unless otherwise authorized in this behalf by the municipality except with the approval or sanction of the standing committee;

(*d*) every contract made by the Chief Officer involving an expenditure exceeding two hundred rupees and not exceeding three hundred rupees shall be reported by him, within fifteen days after the same has been made, to the standing committee;

(*e*) the foregoing provisions of this section shall apply to every variation or discharge of a contract to the same extent as to an original contract.

(*5*) No contract shall be binding on a municipality unless the requirements of this section have been complied with.

Mode of executing contracts.

49. (*1*) Every contract entered into by a Chief Officer on behalf of a municipality shall be entered into in such manner and form as would bind such Chief Officer if such contract were on his own behalf, and may in the like manner and form be varied or discharged:

Provided that—

(*a*) where any such contract, if entered into by a Chief Officer, would require to be under seal, the same shall be sealed with the common seal of the municipality:

(*b*) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees, shall be in writing, and shall be sealed with the common seal of the municipality and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods and in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(*2*) The common seal of the municipality shall not be affixed to any contract or other instrument except in the presence of two members of the standing committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(*3*) A contract not executed in the manner provided in this section shall not be binding on the municipality.

Tenders to be invited for contracts involving expenditure exceeding Rs. 1,000.

50. (*1*) Except as is otherwise provided in sub section (*3*), a Chief Officer shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, give notice by advertisement in a local newspaper, inviting tenders for such contract.

(*2*) The Chief Officer shall not be bound to accept any tender which may be made in pursuance of such notice, but may, with the approval of the standing committee, accept any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him.

(*3*) A municipality may authorise the Chief Officer, for reasons which shall be recorded in its proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tenders which he may receive after having invited them.

Security when to be taken for performance of contract.

51. A Chief Officer shall require security for the due performance of every contract into which he enters under section 50 and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

(*5*) *Compulsory acquisition of land.*

Recourse to the Land Acquisition Act, 1894.

52. When there is any hinderance to the permanent or temporary acquisition by a municipality upon payment of any land or building required for the purposes of this Act, [1][the Provincial Government] may, after obtaining possession of the same for itself under the [2][Land Acquisition Act, 1894, or other existing law, vest such land or building in the municipality on its paying the compensation awarded, and on its repaying to [3][the Provincial Government] all costs incurred by [3][the Provincial Government] on account of the acquisition.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] *See* Central Acts.

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(6) Liabilities of councillors, officers and servants.

Councillors to be held responsible for misapplied funds.

53. Every councillor shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by gross neglect of his duty as a councillor and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of [1][the Crown for the purposes of the Province]:

Provided that no councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of the municipality; the funds at the disposal of each municipality shall be liable for, and be charged with, all costs in respect of any such contract or agreement and all such expenses.

Officer or servant of municipality not to be interested in contract with such municipality.

54. (*1*) Any person who has directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of a municipality, or in any employment with, under, by or on behalf of a municipality, other than as a municipal officer or servant, shall be disqualified for being an officer or servant of such municipality.

(*2*) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant, and his office shall become vacant..

(*3*) Nothing in this section shall apply to any such share or interest in any contract or employment—with, under, by or on behalf of a municipality, as under clauses (*i*), (*ii*) and (*iv*) of sub-section (*3*) of section 12, it is permissible for a person to have without his being thereby disqualified from becoming a councillor.

Penalty for councillor, officer or servant of a municipality being interested in contract, etc., with that municipality.

55. (*a*) Any councillor who knowingly acquires directly or indirectly any share or interest in any contract or employment with, under, by or on behalf of a municipality of which he is a member, not being a share or interest such as under section 12 it is permissible for a person to have without being thereby disqualified from becoming a councillor, and

(*b*) any municipal officer or servant who knowingly acquires directly or indirectly any share or interest in any contract, or, except in so far as concerns his own employment as municipal officer or servant, in any employment with, under, by or on behalf of a municipality of which he is an officer or servant, not being a share or interest such as under clauses (*i*) and (*iv*) of sub-section (*3*) of section 12—it is permissible for a person to have without being thereby disqualified from becoming a councillor,

shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees.

Councillors, etc., to be deemed public servants.

56. (*1*) Every municipal councillor, officer or servant and every lessee of the levy of any municipal tax, and every servant or other person employed by any such lessee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(*2*) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall, for the purposes of sub-section (*1*) of this section, be deemed to include a municipality.

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[1] The words "the Crown for the purposes of the Province" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(7) Validity of proceedings.

Acts and proceedings of municipality and committee not vitiated by disqualifications, etc., of members thereof.

57. (*1*) No disqualification of or defect in the election or appointment of any person acting as councillor or as the president or presiding authority of a general meeting or as chairman or member of a committee appointed under this Act shall be deemed to vitiate any act or proceeding of the municipality or of any such committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

No resolution of a municipality or of any committee appointed under this Act shall be deemed invalid on account of any irregularity in the service of notice, upon any councillor or member, provided that the proceedings of the municipality or committee, were not prejudicially affected by such irregularity.

Proceedings presumed to be good and valid.

(*2*) Until the contrary is proved every meeting of a municipality or of a committee appointed under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

Vacancy not to affect proceedings.

(*3*) During any vacancy in a municipality or committee the continuing councillors or members may act as if no vacancy had occurred.

CHAPTER IV.

Rules and By-Laws.

Municipalities to make rules.

58. A municipality shall make rules not inconsistent with this Act and may from time to time alter or rescind them—

(*a*) regulating the conduct of its business and the delegation of any of its powers or duties to any committee or to the Chief Officer or [1][subject to the provisions of section 37A] the powers or duties of any committee to any other committee or to the Chief Officer and the appointment and constitution of committees;

[2][(*aa*) prescribing the limitations and restrictions subject to which the Pilgrim Committee shall exercise the powers and perform the duties of the municipality in respect of the Pilgrim Fund.]

Defining the functions of the president and others; establishment;

(*b*) determining the executive functions to be performed by the president, vice-president and the chairman of any committee;

(*c*) determining the staff of officers and servants to be employed by the municipality and the respective designations salaries, fees and absentee or other allowances of such officers and servants and their powers and duties;

general guidance of municipal servants; amount of security;

(*d*) generally for the guidance of its officers and servants in all matters relating to the municipal administration;

(*e*) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security;

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[1] These words, figures and letter were inserted by Bom. 4 of 1930, s. 4.
[2] This clause was inserted, *ibid.*

mode of appointing, etc., municipal servants;

(*f*) determining subject to the limitations imposed by sections [1][33, 34 (5) and 34A,] the mode and conditions of appointing, punishing, or dismissing any officer or servant; and delegating to officers designated in the rules the power to appoint, fine, reduce, suspend or dismiss any officer or servant;

leave to municipal servants;

(*g*) regulating the grant of leave to its officers or servants, and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave;

pensions, etc.;

(*h*) regulating the period of service of its officers and servants and determining the conditions under which such officers and servants or any of them shall receive pensions, gratuities or compassionate allowances on retirement or on their becoming disabled through the execution of their duty, and the amount of such pensions, gratuities or compassionate allowances; and prescribing the conditions under which any gratuities or compassionate allowances may be paid to the surviving relatives of any such officers or servants whose death has been caused through the execution of their duty;

provident funds;

(*i*) authorizing the payment of contributions at such rates and subject to such conditions as may be prescribed in such rules, to any pension or provident fund which may be established by the municipality or, with the approval of the municipality, by its officers and servants;

prescribing taxes;

(*j*) prescribing the taxes to be levied in the municipal borough for municipal purposes, the circumstances in which exemption will be allowed, the conditions on which and the extent to which remissions will be granted, and the system on which refunds will be allowed and paid, in respect of such taxes; the limits of the charges or payments to be fixed in lieu of any tax under section 91, the fees to be charged for licences or permissions granted under section 90 and for giving copies and stamping weights and measures; the fees for notices demanding payments due on account of any tax and for the [2][issue and] execution of warrants of distress and the rates to be charged for maintaining any live-stock distrained; and the time at which and the mode in which such taxes, charges, payments, fees or rates shall be levied or recovered or be payable and the persons authorised to receive payment of the same and the manner in which auctions of moveable and immovable property under section 106 shall be held;

writing off amounts due.

(*k*) prescribing the conditions subject to which sums due on account of any tax or of costs in recovering any tax may be written off as irrecoverable and the conditions subject to which the whole or any part of any fee chargeable for distress may be remitted by the standing committee:

Provided that—

Approval required to rules.

(*a*) no rule or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved by [3][the Provincial Government];

Officers transferred from or to the service of the Crown.

[4][(*b*) if an officer serving or having served under a municipality has been, or is, transferred from or to the service of the Crown, or is partly employed by the Crown and partly by a municipality, the municipality shall make such contributions to his pension and leave allowances as may be required, by the conditions of his service under the Crown, to be made by him or on his behalf.]

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[1] These figures, word, letter and brackets were substituted for the figures, word and brackets "33 and 34(5)" by Bom. 3 of 1930, s. 3.

[2] The words "issue and" were inserted by Bom. 12 of 1931, s. 3 (*i*).

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[4] The proviso (*b*) was substituted for the original proviso (*b*), *ibid.*

(*c*) a municipality shall not unless with the assent of [1][the government concerned] dispense with the services of any officer transferred from the service of [2][the Crown] to the service of the municipality or employed partly by [2][the Crown] and partly by the municipality, or finally dismiss from the service of the municipality any officer transferred from the service of the municipality to the service of [2][the Crown] without giving [1][the government concerned] six months' previous notice. Notice required in certain cases of dismissal.

[3][**58A.** A municipality may, at its discretion, make rules, not inconsistent with this Act, determining the conditions under which gratuities or compassionate allowances may be paid to the surviving relatives of its officers and servants or any of them who die during service and the amount of such gratuities or compassionate allowances : Discretionary power to make rules.

Provided that no rule or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved by [4][the Provincial Government].

59. (*1*) Notwithstanding anything contained in clause (*a*) of the proviso to section 58, the approval required to be given in respect of rules framed under clause (*c*) of section 58 may be given by the Commissioner instead of by [5][the Provincial Government], subject to the condition, that any such rules relating to Chief Officers, health officers or engineers or to the salaries, fees or absentee or other allowances of such officers shall require the sanction of [4][the Provincial Government]. Rules made with approval of Commissioner or without approval.

(*2*) Notwithstanding anything contained in clause (*a*) of the proviso to section 58 or in sub-section (*1*) of this section, a municipality shall have power to make without sanction a rule under clause (*c*) of section 58, creating an appointment or increasing the salary of an appointment or granting or increasing an allowance in any case where the salary of such appointment or the amount of such allowance or the amount of such increase, as the case may be, does not involve a charge on the municipal fund exceeding rupees one hundred in the month :

Provided that [4][the Provincial Government] may withdraw this power from any municipality either permanently or for such period as they think fit to prescribe when in their opinion there are good reasons for doing so.

60. (*1*) Subject to the requirements of clause (*a*) of the proviso to section 58 a municipality may, except as otherwise provided in clause (*b*) of the proviso to section 103 at any time for any sufficient reason, suspend, modify or abolish any existing tax by suspending, altering or rescinding any rule prescribing such tax. Power to suspend, reduce or abolish any existing tax.

(*2*) The provisions of Chapter VII relating to the imposition of taxes shall apply so far as may be to the suspension, modification or abolition of any tax and to the suspension, alteration or rescission of any rule prescribing a tax.

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[1] The words "the government concerned" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Crown" were substituted for the words "the Government", *ibid.*

[3] This section was inserted by Bom. 9 of 1930, s. 2.

[4] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[5] The words "the Provincial Government" were substituted for the word "Government" *ibid.*

Power to make by-laws;

61. (*1*) A municipality, may from time to time, with the previous sanction of [1][the Provincial Government] make, alter or rescind by-laws not inconsistent with this Act—

markets and slaughter-houses, etc.;

(*a*) for the regulation and inspection of markets and slaughter-houses and all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and cleanly conduct of business therein; and for fixing the rents and other charges to be levied for the use of any of them which belong to the municipality, for regulating the sale of fruit and vegetables in the municipal market or other specified places;

Licensing, regulating and inspecting certain businesses;

(*b*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licenses may be granted, refused, suspended or withdrawn for the use of any place not belonging to the municipality—

(*i*) as a slaughter-house;

(*ii*) for the manufacture, preparation, storing, sale or supply for the purpose of trade of any article or thing intended for human food or drink, whether such food or drink is to be consumed in such place or not;

(*iii*) for any of the purposes mentioned in sub-section (*1*) of section 186;

and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effect arising or likely to arise therefrom;

use of steam whistles, etc.;

(*c*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of whistles and trumpets operated by steam or mechanical means in factories or other places for the purpose of summoning or dismissing workmen, or persons employed;

Pilgrims' lodging houses;

(*d*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licenses may be granted, refused, suspended or withdrawn for the use of any place or building for the purpose of lodging pilgrims, and providing for the inspection and regulation of such places or buildings;

stalling of cattle, etc;

(*e*) prohibiting the stalling or herding of horses camels, cattle, donkeys, sheep or goats otherwise than in accordance with such regulations prescribed in such by-laws in regard to the number thereof, and the places to be used for the purpose, as may be necessary to prevent danger to the public health;

milk shops;

(*f*) prescribing the conditions on which sweet-meats may be sold and on which licences may be granted, refused, suspended, or withdrawn for the use, for purposes of trade, of any place for stabling milch cattle, for storing or selling milk, or for making, storing or selling butter or other milk products;

for regulating dairies and cattle-sheds,

(*g*) (*i*) for the inspection of milch cattle; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy-men or milk sellers;

milk stores, etc;

(*ii*) for securing the cleanliness of milk-stores, milk-shops and vessels used by milk-sellers or buttermen for milk or butter;

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[1](*h*) * * * * *

[1](*i*) * * * * *

(*j*) for the registration of births, deaths, and marriages [2]* * * * within the municipal borough and for enforcing the supply of such information as may be necessary to make such registration [3]* * * effective; registration of births, etc.;

(*k*) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or section of the community entitled to the use of such places for the disposal of the dead; regulating the disposal of the dead;

(*l*) for enforcing the supplyof information as to any cases of dangerous disease, and carrying out the provisions of sections 179 and 180; for enforcing supply of information as to epidemics;

(*m*) for enforcing the supply of such information by inhabitants of the municipal borough as may be necessary to ascertain their respective liabilities to any tax imposed therein; for enforcing information as to liability to municipal taxation;

(*n*) fixing octroi limits and stations; providing for the exhibition of tables of octroi; regulating, subject to any general or special orders which [4][the Provincial Government] may make in this behalf, the system, under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported, and the custody or storage or goods declared not to be intended for use or consumption within the municipal borough; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained and the minimum amount for which any claim to refund may be made; octroi;

(*o*) fixing terminal tax limits and stations, providing for the exhibition of tables of terminal tax, and regulating the mode of recovery of such tax; terminal tax;

(*p*) for conserving and preventing injury to sources and means of water supply and appliances for the distribution of water, whether within or without the limits of the municipal borough, and regulating all matters and things connected with the supply and use of water and the turning on or turning off and preventing the waste of water, and the construction, maintenance and control of municipal water-works, and of pipes and fittings in connection therewith, whether the property of the municipality or not; for protecting water;

Explanation.—Sources and means of water supply shall include private well which are used by the public.

(*q*) regulating the use of public bathing and washing places within the municipal borough; public baths, etc.;

(*r*) regulating sanitation and conservancy and the disposal of the carcasses of dead animals; conservancy;

(*s*) regulating the conditions on which permission may be given for the temporary occupation of, or the erection of temporary structures on public streets or for projections over public streets; temporary structures and buildings;

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[1] On the coming into force of Part VI of the Bombay Weights and Measures Act, 1932 (Bom. 15 of 1932) in any area, clauses (*h*) and (*i*) shall be deemed to have been repealed.—(*Vide* Bom. 15 of 1932, s. 47 and Second Schedule, Part II). Clauses (*h*) and (*i*) run as follows:—

"(*h*) for the inspection of weights and measures under section 177 and for the stamping of weights and measures and for charging fees for the same;

(*i*) for defining the standard weights and measures used within the municipal borough;"

[2] The words "and the taking of a census" were omitted by the Adaptation of Indian Laws Order in Council.

[3] The words "or census" were omitted, *ibid.*

[4] The words "the Provincial Government" were substituted for the words "the Government", *ibid.*

buildings; (*t*) regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings for the purpose of securing stability and the prevention of fires, and for purposes of health, and determining the purposes for which existing or newly erected buildings may be used in any area;

streets; (*u*) for preventing the erection of buildings without adequate provision being made for the location and laying out of streets; and for the payment of compensation in such cases when necessary;

ventilation; (*v*) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air;

qualified surveyors; (*w*) prescribing the qualifications of surveyors or persons by whom plans required under section 123 are to be prepared, or of plumbers; for licensing persons to be surveyors or plumbers and, fixing the fees chargeable for such licences; and for modifying the provisions of or revoking such licences; and prohibiting any alterations or repairs or fittings to water or drainage pipes or house connections being carried out or made except by such persons;

drains; (*x*) regulating, in any other particular not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, water closets, privies, latrines, urinals and drainage or sewerage works of every description whether the property of the municipality or not;

requiring information and plans in certain cases; (*y*) determining the information and plans to be required by the municipality under sections 117 and 123;

controlling unwieldy traffic; (*3*) prohibiting vehicular traffic in any particular street, so as to prevent danger, obstruction or inconvenience to the public, by fixing up posts at both ends of such street or portion of such street, prohibiting the transit of any vehicles of such form, construction, weight or size or laden with such heavy or unwieldy objects as may be deemed likely to cause injury to the roadways or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over any street, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the roadway, number of lights and assistants, and other general precautions as may be prescribed either generally in such by-laws or in special licences to be granted in each case upon such terms as to time of application and payment of fees therefor as may be prescribed in such by-laws:

Provided that no such by-law relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibitions shall have been posted up by the municipality in conspicuous places at or near both ends of such street or portion of a street;

public parks; (*aa*) securing the protection of public parks, gardens and open spaces, vested in or under the control of the municipality, from injury or misuse, regulating their management and the manner in which they may be used by the public, and providing for the proper behaviour of persons in them;

[1](*bb*) prescribing the conditions on or subject to which licences may be granted refused, suspended or withdrawn, for the use of hand-carts, and hand-barrows, other than those plying for hire in respect of which licences have been granted under the Bombay Public Conveyances Act, 1920, and providing for the seizure and detention of any hand-carts or hand-barrows which have not been duly licensed in pursuance of the by-laws made under this section; Bom. VII of 1920.

[1](*cc*) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn for hawking or exposing for sale in any public place or street any article whatsoever, whether it be for human consumption or not;

[1] Clauses (*bb*) and (*cc*) were inserted by Bom. 19 of 1935, s. 7 (i).

[1](*dd*) prescribing the conditions on or subject to which permission may be granted, renewed, refused, suspended or withdrawn for erecting, exhibiting, fixing or retaining any sky-sign or advertisement, over any land, building or structure.

[1]*Explanation.*—The expression "sky-sign" shall mean any word, letter, model, sign, device or representation in the nature of an advertisement, announcement or direction, supported on or attached to any post, pole, standard, framework or other support wholly or in part upon or over any land, building or structure which, or any part of which sky-sign, shall be visible against the sky from some point in any street and includes all and every part of any such post, pole, standard, framework, or other support. The expression "sky-sign" shall also include any balloon, parachute or other similar device employed wholly or in part for the purposes of any advertisement, announcement or direction upon or over any land, building or structure or upon or over any street, but shall not include—

(*a*) any flagstaff, pole, vane or weather-cock, unless adapted or used wholly or in part for the purpose of any advertisement, announcement or direction;

(*b*) any sign, or any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on the cornice or blocking course of any wall, or to the ridge of a roof:

Provided that such board, frame or other contrivance be of one continuous face and not open work, and do not extend in height more than three feet above any part of the wall, parapet or ridge to, against, or on which it is fixed or supported;

(*c*) any word, letter, model, sign, device or representation as aforesaid, relating exclusively to the business of a railway company, and placed wholly upon or over any railway, railway station, yard, platform or station approach belonging to a railway company, and so placed that it cannot fall into any street or public place;

(*d*) any notice of land or building to be sold or let, placed upon such land or building.

general regulation

[2](*ee*) generally for the regulation of all matters relating to municipal administration;

Fine may be imposed for infringement of by-laws

and the municipality may, with the like sanction, prescribe a fine not exceeding five hundred rupees for every infringement of any such by-law.

[3][(*1a*) A municipality may, from time to time, with the previous sanction of the Central Government, make, alter or rescind by-laws, but not so as to render them inconsistent with this Act, for the taking of a census within the municipal borough and for enforcing the supply of such information as may be necessary to make such census effective.]

Publication of drafts of proposed by-laws.

(*2*) A municipality shall, before making any by-law under this section, publish in such manner as shall in its opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed by-law, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the by-law, receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

Objections and suggestions to be submitted to Central or Provincial Government

(*3*) When any by-law made by a municipality is submitted to [4][the Central or the Provincial Government] for sanction, a copy of the notice published and of every objection or suggestion received under the provisions of sub-section (*2*), shall be submitted for the information of [5][that Government] along with the said by-law.

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[1] Clause (*dd*) and the Explanation were inserted by Bom. 19 of 1935, s. 7 (*i*).

[2] The original clause (*bb*) was relettered (*ee*), *ibid*, s. 7 (*ii*).

[3] Sub-section (*1a*) was inserted by the Adaptation of Indian Laws Order in Council.

[4] The words "the Central or the Provincial Government" were substituted for the words "the Government", *ibid*.

[5] The words "that Government" were substituted for the words "the Government", *ibid*.

Rules and by-laws to be printed and sold.

62. The rules and by-laws for the time being in force shall be kept open to public inspection at the municipal office at all reasonable times; printed copies thereof and of this Act in the vernacular language of the district and in English shall be kept on sale at cost price.

CHAPTER V.

MUNICIPAL PROPERTY AND FUND.

Power to acquire and hold property for the purposes of the Act.

63. (*1*) A municipality may acquire and hold property both moveable and immovable, whether within or without the limits of the municipal borough.

(*2*) All property of the nature specified in the clauses to this section, not being specially reserved by [1][the Provincial Government], shall be vested in and belong to the municipality, and shall, together with all other property of what nature or kind soever, which may become vested in the municipality, be under its direction, management and control, and shall be held and applied by it is as trustee, subject to the provisions and for the purposes of this Act :—

(*a*) All public town-walls, gates, markets, slaughter-houses, manure and night-soil depots, and public buildings of every description.

(*b*) All public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, pumps and other water works; and all bridges, buildings, engines, works, materials and things connected with or appertaining to such water works; and also any adjacent land, not being private property, appertaining to any public tank or well.

(*c*) All public sewers and drains; all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any street, and all works, materials and things appertaining thereto; all dust, dirt, dung, ashes, refuse, animal matter, filth, or rubbish of any kind collected by the municipality from the streets, houses, privies, sewers, cesspools or elsewhere.

(*d*) All public lamps, lamp-posts, and apparatus connected therewith, or appertaining thereto.

(*e*) All lands transferred to it by the [2][Crown], or by gift or otherwise, for local public purposes.

(*f*) All public streets, and the pavements, stones and other materials thereof and also all trees, erections, materials, implements and things provided for such streets.

Decision of claims to property by or against the municipality.

64. (*1*) In any municipal borough to which a survey of lands, other than lands ordinarily used for the purposes of agriculture only, has been or shall be extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on behalf of the municipality, or by any person as against the municipality, it shall be lawful for the Collector after formal enquiry, of which due notice has been given, to pass an order deciding the claim.

(*2*) Any suit instituted in any civil court after the expiration of one year from the date of any order passed by the Collector under sub section (*1*), or, if one or more appeals have been made against such order within the period of limitation, then from the date of any order passed by the final appellate authority, as determined, according to section 204 of the Bombay Land Revenue Code, 1879, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order provided that the plaintiff has had due notice of such order.

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[1] The words "the Provincial Government" were substituted for the words "the Government", by the Adaptation of Indian Laws Order in Council.

[2] The word "Crown" was substituted for the words "Secretary of State for India in Council", *ibid.*

(3) (*a*) The powers conferred by this section on a Collector may also be exercised by an Assistant or Deputy Collector or by a Survey Officer as defined in the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

Bom. V of 1879.

(*b*) The formal enquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code.

(*c*) Any person shall be deemed to have had due notice of an enquiry or order under this section if notice thereof has been in accordance with rules made in this behalf by [1][the Provincial Government].

Municipal fund.

65. All moneys received by or on behalf of a municipality by virtue of this or any other Act; all taxes, fines and penalties paid to or levied by it under this Act [2][other than fines imposed by any Court]; all proceeds of land or other property sold by the municipality, and all rents accruing from its land or property; and all interest, profits and other moneys accruing by gift or transfer from the [3][Crown] or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property specified in section 63:

Provided that—

Special trusts.

(*a*) nothing in this section or in section 63 shall in any way affect any obligation accepted by or imposed upon any municipality by any declarations of trust executed by or on behalf of such municipality or by any scheme settled under the [4]Charitable Endowments Act, 1890, for the administration of any trust, or by a trust of the nature specified in clause (*b*) of this proviso;

VI of 1890.

(*b*) a municipality may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on it by or under this Act or any other law for the time being in force, credit to a separate heading in the municipal accounts any portion of the municipal fund received or set apart by it specially for the purposes of schools or dispensaries or water works or fire-brigades or other such purposes as the Commissioner in this behalf approves, and the municipality may apply any sums properly so credited exclusively to the special purposes for which such sums were received or set apart.

[5](*c*) (*1*) Every municipality in a municipal borough in which a tax on pilgrims resorting periodically to a shrine within the limits of the municipal borough is levied shall, subject to the condition that reasonable provision shall be made for the purposes specified in clause (*2*), credit the proceeds of the said tax to a separate heading in the municipal account, to be called the "Pilgrim Fund Account".

(*2*) The purposes for which provision shall be made by a municipality before the proceeds of the pilgrim tax are credited to the Pilgrim Fund Account shall be the following, namely, the payment to the municipality of such percentage of the proceeds of the said tax as may be determined from time to time by the municipality with the approval of the Commissioner for

(*i*) making reasonable provision for the performance of all obligations imposed or which may be imposed on it by or under this Act or any other law for the time being in force;

(*ii*) such general duties of the municipality as are connected with the health, convenience and safety of the said pilgrims; and

(*iii*) the cost of collection of the said tax.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "other than fines imposed by any court" were inserted, *ibid.*

[3] The word "Crown" was substituted for the words "Secretary of State for India in Council", *ibid.*

[4] *See* Central Acts.

[5] This proviso was added by Bom. 4 of 1930, s. 4 (*x*).

(*3*) The sums credited under clause (*1*) shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Commissioner.

Application of municipal property and funds within and without the municipal borough.

66. The municipal fund and all property vested in a municipality shall be applied for purposes of this Act within the limits of the municipal borough :

Provided always that it shall be lawful for the municipality, with the sanction of [1][the Provincial Government] or any officer duly authorised by it in this behalf,—

(*a*) to incur expenditure in the acquisition of land or in the construction, maintenance or repair of works beyond the said limits for the purpose of obtaining a supply of water required for the inhabitants of the municipal borough, or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals or for drainage works, or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said borough ; or

(*b*) to make a contribution towards expenditure incurred by any other local authority or out of any public funds for measures affecting the health, instruction, safety or convenience of the public and calculated to benefit the residents within the limits of the contributing municipality ; or

(*c*) to create scholarships tenable outside the limits of the municipal borough :

Provided, further, that nothing in this section or in any other provision of this Act shall be deemed to make it unlawful for a municipality when with such sanction as aforesaid it has constructed works beyond the limits of the municipal borough for the supply of water or for drainage as aforesaid—

(*a*) to supply or extend to or for the benefit of any person or buildings or lands in any place whether such place is or is not within the limits of the said borough, any quantity of water not required for the purposes of this Act within the said borough, or the advantages afforded by the system of drainage-works, on such terms and conditions with regard to payment and to the continuance of such supply or advantages as shall be settled by agreement between the municipality and such person or the occupier or owner of such buildings or lands, or

(*b*) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair or alteration of any connection pipes or other works necessary for the purpose of such supply or for the extension of such advantages.

Power to deposit and invest surplus funds.

67. (*1*) It shall be lawful for a municipality to deposit [2]* * with the Imperial Bank of India or such other bank as may hereafter be appointed to conduct the business of His Majesty's treasury at Bombay or with the sanction of [1][the Provincial Government] in any bank in the Presidency of Bombay any surplus funds in its hands which may not be required for current charges, and to invest such funds in public securities in the name of the municipality, and from time to time to dispose of such securities as may be necessary.

Surplus not so deposited or invested how to be dealt with.

(*2*) All surplus funds over and above what may be required for current expenses, unless deposited or invested as provided for in sub-section (*1*), shall be deposited in the local Government treasury or such other place of security as may be sanctioned in the rules of the municipality.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "at interest" were deleted by Bom. 23 of 1931, s. 4 (*i*).

CHAPTER VI.

OBLIGATORY AND DISCRETIONAL FUNCTIONS OF MUNICIPALITIES.

Duties of municipalities.

68. It shall be the duty of every municipality to make reasonable and adequate provision—

(*I*) for the following matters within the municipal borough under its authority, namely :—

(*a*) lighting public streets, places and buildings ;

(*b*) watering public streets and places ;

(*c*) cleansing public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such places are vested in the municipality or not ; removing noxious vegetation ; and abating all public nuisances ;

(*d*) extinguishing fires, and protecting life and property when fires occur ;

(*e*) regulating or abating offensive or dangerous trades or practices ;

(*f*) removing obstructions and projections in public streets or places and in spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the municipality or in His Majesty ;

(*g*) securing or removing dangerous buildings or places, and reclaiming unhealthy localities ;

(*h*) acquiring and maintaining, changing and regulating places for the disposal of the dead ;

(*i*) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like ;

(*j*) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost ;

(*k*) naming streets and numbering houses ;

(*l*) registering births, marriages and deaths ;

(*m*) public vaccination ;

(*n*) suitable accommodation for any calves, cows, or buffaloes required within the municipal borough for the supply of animal lymph ;

(*o*) establishing and maintaining public hospitals and dispensaries, and providing public medical relief ;

(*p*) establishing and maintaining primary schools ;

(*q*) printing such annual reports on the municipal administration of the borough as [1][the Provincial Government] by general or special orders requires the municipality to submit ;

(*r*) paying the salary and the contingent expenditure on account of such police or guards as may be required by the municipality for the purposes of this Act or for the protection of any municipal property ;

(*s*) erecting substantial boundary marks of such description and in such position as shall be approved by the Collector, defining the limits or any alteration in the limits of the municipal borough ; and

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

(2) subject to such reasonable and adequate provision as aforesaid, for the following special matters, namely :—

(*a*) providing special medical aid and accommodation for the sick in time of dangerous disease ; and taking such measures as may be required to prevent the outbreak or to suppress and prevent the recurrence of the disease ;

(*b*) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the municipal borough.

Provision for anti-rabic treatment of indigent persons.

69. Every municipality shall, out of the municipal property and fund, make payments, at such rates and subject to such conditions as [1][the Provincial Goverment] from time to time by general or special order prescribes, for the maintenance and treatment in any institution which [1][the Provincial Government] declares by notification to be suitable for such purpose either within or without the municipal borough, and for other necessary expenses, of persons undergoing anti-rabic treatment as indigent persons according to the rules applicable to such institution and proceeding from the municipal borough :

Provided that the municipality shall not be liable under this section for the maintenance, treatment and other necessary expenses of any person undergoing anti-rabic treatment as an indigent person in any such institution as aforesaid, unless such person, previous to his admission thereto, has been resident in the municipal borough for at least one year.

Provision for lunatics and lepers.

70. Every municipality shall also, out of the municipal property and fund, make payments at such rates as [1][the Provincial Government] from time to time by general or special order prescribes, for the maintenance and treatment either in the municipal borough or at any asylum, hospital or house, whether within or without such borough, which [1][the Provincial Government] declares by notification to be suitable for such purpose,—

(*a*) of lunatics, not being persons for whose confinement an order under Chapter XXXIV of the Code of Criminal Procedure, 1898, is in force, and V of 1898

(*b*) of lepers,

resident within, or under any enactment for the time being in force removed from, such borough :

Provided that the municipality shall not be liable under this section for the maintenance and treatment of any lunatic or leper in any such asylum, hospital or house as aforesaid, unless such lunatic or leper, immediately previous to his admission thereto, has been resident in the municipal borough for at least one year :

Provided further that [2][where an application is made to the High Court or a District Court under the provisions of section 88 of the Indian Lunacy Act, 1912, IV o 1912 no order for the payment of the cost of maintenance of the lunatic by a municipality shall be made without an opportunity being given to such municipality to show that the lunatic has an estate applicable to his maintenance or that there is a person legally bound, and having the means, to maintain him]. The officer in charge of any asylum to which lunatics for whose maintenance and treatment a municipality is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of each lunatic detained in the asylum and shall furnish a copy thereof to the municipality on application.

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words beginning with the words " before making any order " and ending with the words " the Local Government " by Bom. 15 of 1936, s. 4.

Discretionary powers of expenditure of municipalities.

71. A municipality may, at its discretion, provide, either wholly or partly, out of the municipal property and fund for—

(*a*) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, and the land required for the construction of buildings or curtilages thereof, to abut on such streets ;

(*b*) constructing, establishing, or maintaining public parks, gardens, libraries, museums, lunatic asylums, halls, offices, dharamsalas, rest-houses and other public buildings ;

(*c*) furthering educational objects other than those set forth in clause (*p*) of sub-section (*1*) of section 68 ;

(*d*) planting and maintaining road-side and other trees ;

(*e*) providing music for the people ;

(*f*) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics ;

(*g*) making a survey ;

Bom. IV of 1896.

(*h*) paying the salaries and allowances, rent and other charges incidental to the maintenace of the Court of any stipendiary or honorary Magistrate, or any portion of any such charges ;

Bom. IV of 1902.

(*i*) arranging for the destruction or the detention and preservation of dogs which may be destroyed or detained under section 157 of this Act or under section 49 of the Bombay District Police Act, 1890, [1][or as the case may be, section 29 of the City of Bombay Police Act, 1902] ;

(*j*) securing or assisting to secure suitable places for the carrying on of the offensive trades specified in sub-section (*1*) of section 186 ;

(*k*) supplying, constructing and maintaining, in accordance with a general system approved by the sanitary board, receptacles, fittings, pipes and other appliances whatsoever, on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the municipality ;

(*l*) the acquisition and maintenance of grazing grounds ; and the establishment and maintenance of dairy farms and breeding stud ;

(*m*) establishing and maintaining a farm or factory for the disposal of sewage ;

(*n*) the construction, maintenance, management, organisation or purchase of telephone lines, or for guaranteeing the payment of interest on money expended for the construction of a telephone line subject to the previous sanction of the Commissioner when the line extends beyond the limits of the municipal borough ;

(*o*) providing accommodation for any class of servants employed by the municipality ;

(*p*) the construction of sanitary dwellings for the poorer classes ;

[2][(*q*) the construction, purchase, organisation, maintenance, extension and management of light railways, tramways and mechanically propelled transport facilities for the conveyance of the public ;]

(*r*) any other measure not specified in section 68 likely to promote the public safety, health, convenience or education ; and

(*s*) by a resolution passed at a general meeting and supported by two-thirds of the whole number of councillors any public reception, ceremony, entertainment or exhibition within the municipal borough.

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[1] This portion was added by Bom. 22 of 1945, s. 3, read with Bom. I of 1947, s. 3.
[2] This clause was substituted for the original by Bom. 2 of 1947, s. 3.

Arrangements purporting to be binding permanently or for a term of years.

72. Where a municipality has entered into any arrangement or made any promise, purporting to bind it or its successors for a term of years or for an unlimited period, to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the municipality or its successors with the sanction of [1][the Provincial Government] to cancel such arrangement or promise, or to discontinue, or to diminish such yearly contribution provided that it shall have given at least twelve months' notice of its intention so to do to the manager or managers of such institution.

CHAPTER VII.

MUNICIPAL TAXATION.

(1) Imposition of Taxes.

Taxes which may be imposed.

73. Subject to any general or special orders which [1][the Provincial Government] may make in this behalf and to the provisions of sections 75 and 76, a municipality may impose for the purposes of this Act any of the following taxes, namely :—

(*i*) a rate on buildings or lands or both situated within the municipal borough ;

(*ii*) a tax on all vehicles, boats or animals used for riding, draught or burden and kept for use within the said borough, whether they are actually kept within or outside the said borough :

[2][Provided that where a motor vehicle is kept for use within the said borough as well as another municipal borough or municipal district, it shall be liable to be taxed only by the municipality within, or nearest to, whose limits such vehicle is actually kept.]

(*iii*) a toll on vehicles [3][(other than motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)] and animals used as aforesaid, entering the said borough but not liable to taxation under clause (*ii*) of this section ; Bom. XXXI of 1935

(*iv*) an octroi on animals or goods or both, brought within the octroi limits for consumption or use therein ;

(*v*) a terminal tax on goods imported into or exported from the terminal tax limits :

Provided that, save as provided in clause (*xiv*) no such tax shall be leviable in a borough in which an octroi was not levied on or before the 6th July 1917 ;

(*vi*) a tax on dogs kept within the said borough ;

(*vii*) a special sanitary cess upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required ;

(*viii*) a general sanitary cess for the construction and maintenance of public latrines, and for the removal and disposal of refuse ;

(*ix*) a drainage tax ;

(*x*) a general water-rate or a special water-rate or both for water supplied by the municipality, which may be imposed in the form of a rate assessed on buildings and lands or in any other form, including that of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of [4][cases] or of any individual case ;

(*xi*) a lighting tax ;

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] This proviso was inserted by Bom. 7 of 1946, s. 3, read with Bom. 1 of 1947, s. 4.

[3] These words, figures and brackets were inserted by Bom. 34 of 1935, s. 22, Sch. II.

[4] The word " cases " was substituted for the word " case " by Bom. 24 of 1926, s. 2, Sch.

(*xii*) a tax on pilgrims resorting periodically to a shrine within the limits of the municipal borough;

(*xiii*) a special educational tax;

[1][(*xiv*) any other tax (not being a toll on motor vehicles and trailers, save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) which under the Government of India Act, 1935, the Provincial Legislature has power to impose in the Province.]

Bom. XXXIV of 1935.

[2](*xv*) * * * * * * *

Provided that—

(*a*) no tax imposed as aforesaid, other than a special sanitary cess, a drainage tax or a water-rate, shall, without the express consent of the [3][Crown], be leviable in respect of any building or part of any building or of any vehicle, animal or other property, belonging to His Majesty and used solely for public purposes and not used or intended to be used for purposes of profit; and no toll shall be leviable in respect of any animal or vehicle used for the passage of troops or the conveyance of [3][Crown] stores or of any other [3][Crown] property, or for the passage of military or police-officers on duty or the passage or conveyance of any person or property in their custody;

(*b*) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds, unless and until the municipality has—

(*i*) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(*ii*) issued either severally to the person to be charged, or generally to the inhabitants of the borough or part of the borough to be charged with such cess, one month's notice of the intention of the municipality to perform such cleansing and to levy such cess;

(*c*) the municipality in lieu of imposing separately any two or more of the taxes described in clauses (*i*), (*viii*), (*x*) and (*xi*), may impose a consolidated tax assessed as a rate on buildings or lands or both situated within the municipal borough.

[4][(*2*) Nothing in this section shall authorize the imposition of any tax which the Provincial Legislature has no power to impose in the Province under the Government of India Act, 1935:

Provided that a municipality, which immediately before the commencement of Part III of the said Act was lawfully levying any such tax under this section as then in force, may continue to levy that tax until provision to the contrary is made by the Central Legislature.]

Payment to be made to the municipality in lieu of a rate on buildings by the Government concerned.

74. (*1*) The [5][Government concerned [6]* * * *] shall pay to the municipality annually in lieu of a rate on buildings from which buildings vesting in His Majesty are exempted by proviso (*a*) to section 73, a sum ascertained in the manner provided in sub-sections (*2*) and (*3*).

(*2*) The rateable value of the buildings vesting in His Majesty and beneficially occupied, in respect of which but for the said exemption a rate on such buildings would be leviable from the [5][Government concerned [7]* * * *].

[1] This clause was substituted for the original clause by the Adaptation of Indian Laws Order in Council.

[2] Clauses (*xv*) was omitted, *ibid.*

[3] The word "Crown" was substituted for the word "Government", *ibid.*

[4] Sub-section (*2*) was inserted, *ibid.*

[5] These words were substituted for the word "Government", *ibid.*

[6] The words "or the Crown Representative, as the case may be," were omitted in pursuance of para. 7 of the India (Adaptation of Existing Indian Laws) Order, 1947.

[7] The words "or the Crown Representative" were omitted, *ibid.*

shall be fixed by a person from time to time appointed in this behalf by [1][the Provincial Government]. The said value shall be fixed by the said person, with a general regard to the provisions hereinafter contained concerning the valuation of property assessable to property-taxes, at such amount as he shall deem to be fair and reasonable. The decision of the person so appointed shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number and extent of the buildings vesting in His Majesty in the said borough materially increases or decreases.

(*3*) The sum to be paid annually to the municipality by the [2][Government concerned [3]* * * *] shall be eight-tenths of the amount which would be payable by an ordinary owner of buildings in the said borough on account of the said rate on buildings on a rateable value of the same amount as that fixed under sub-section (*2*).

Procedure preliminary to imposing tax.

75. A municipality before imposing a tax shall observe the following preliminary procedure :—

(*a*) it shall, by resolution passed at a general meeting, select for the purpose one or other of the taxes specified in section 73 and approve rules prepared for the purposes of clause (*j*) of section 58, prescribing the tax selected, and in such resolution and in such rules specify—

(*i*) the classes of persons or of property or of both, which the municipality proposes to make liable, and any exemptions which it proposes to make ;

(*ii*) the amount or rate at which the municipality proposes to assess each such class ;

(*iii*) in the case of a rate on buildings or lands or both, the basis, for each class, of the valuation on which such rate is to be imposed ;

(*iv*) all other matters which [1][the Provincial Government] may require to be specified therein.

(*b*) When such resolution has been passed, the municipality shall publish the rules so approved with a notice in the form of Schedule II prefixed thereto.

(*c*) Any inhabitant of the municipal borough objecting to the imposition of the said tax or to the amount or rate proposed or to the classes of persons or property to be made liable thereto or to any exemptions proposed may, within one month from the publication of the said notice, send his objection in writing to the municipality ; the municipality shall take all such objections, into consideration, or shall authorize a committee to consider the same and report thereon ; and unless it decides to abandon the proposed tax, shall submit such objections with its opinion thereon and any modifications proposed in accordance therewith, together with the notice and rules aforesaid to [1][the Provincial Government].

Explanation.—In the case of lands the basis of valuation may be either capital or annual letting-value.

Power to sanction, modify and impose conditions.

76. [4][The Provincial Government] may refuse to sanction the rules submitted under section 75, or may return them to the municipality for further consideration ; or if no objection or no objection which is in its opinion sufficient, was made to the proposed tax within the period prescribed under section 75, may sanction the said rules without modification, or subject to such modifications not involving an increase

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "Government concerned or the Crown representative" were substituted for the word "Government", *ibid.*

[3] The words "or the Crown Representative" were omitted in pursuance of para. 7 of the Indian (Adaptation of Existing Indian Laws) Order, 1947.

in the amount to be imposed, or to such conditions as to the application within the municipal borough to any purpose or purposes of this Act specified in such conditions of the whole or any part of the proceeds of the tax, as it deems fit.

Publication of sanctioned rules with notice.

77. Rules sanctioned under section 76 with the modifications and conditions, if any, subject to which the sanction is given shall be published by the municipality in the municipal borough, together with a notice reciting the sanction and the date and serial number thereof; and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the date of publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the municipality in accordance with all conditions, if any, subject to which sanction under section 76 was given:

Provided that—

(*a*) a tax leviable by the year shall not come into force except on one of the following days, namely, the first day of April, the first day of July, the first day of October or the first day of January in any year; and if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing;

(*b*) on or before the day on which a notice is issued under this section, the municipality shall publish such further detailed rules as may be required, and as may have been approved by [1][the Provincial Government] under clause (*a*) of the proviso to section 58, prescribing the mode of levying, and recovering the tax therein specified and the dates on which it or the instalments, if any, thereof shall be payable;

(*c*) if the levy of a tax, or of a special portion of a tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period.

Municipalities empowered by Provincial Government to levy taxes at varying amount or rate.

[2][**77A.** (*1*) [1][The Provincial Government] may, by notification in the [3][*Official Gazette*], empower any municipality to levy any tax imposed by such municipality under section 73 within such maximum and minimum limits either as to the amount or the rate as may be specified in such notification.

(*2*) Notwithstanding any resolution or rule under section 75 specifying the amount or rate at which such tax is leviable, any municipality empowered under sub-section (*1*) may, by a resolution passed at a general meeting, decide to increase or reduce the amount or rate at which such tax is leviable:

Provided that—

(*a*) such increase or reduction shall be within the maximum and minimum limits fixed in respect of such tax under sub-section (*1*), and

(*b*) such increase or reduction shall not exceed ten per centum of the amount or rate at which such tax was leviable during the preceding official year.

(*3*) When a municipality has by a resolution passed under sub-section (*2*) decided to increase or reduce the amount or rate at which any tax is leviable; the municipality shall publish in the municipal borough the resolution together with notice specifying a date, which shall not be less than one month from the date of publication of such notice, from which the amount or rate at which any tax is leviable shall be increased or reduced. The tax at the amount or rate so increased or reduced shall be leviable from the date specified in such notice.]

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] S. 77A was inserted by Bom. 19 of 1935, s. 8.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(2) Assessment of and liability to rates on buildings or lands.

Preparation of an assessment-list.

78. (*1*) When a rate on building or lands or both is imposed, the Chief Officer shall cause an assessment-list of all buildings or lands or lands and buildings in the municipal borough to be prepared containing—

(*a*) the name of the street or division in which the property is situate ;

(*b*) a description of the property sufficient for identification ;

(*c*) the names of the owner and occupier, if known ;

(*d*) the valuation based on capital or annual letting value, as the case may be, on which the property is assessed ; and

(*e*) the amount of the tax assessed thereon.

(*2*) In assessing a tax on buildings or lands, where the valuation determined under clause (*d*) of sub-section (*1*) of this section is the annual letting value, a sum equal to ten per centum of the said valuation shall be deducted therefrom in lieu of all allowance for repairs or on any other account whatsoever.

Power to inspect and require returns.

(*3*) For the purpose of preparing such assessment-list the Chief Officer or any person acting under his authority may inspect any building or land in the municipal borough and on the requisition of the Chief Officer the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribed with his signature of the name and place of abode of the owner or occupier or of both and the annual letting value and his estimate of the value of such building or land.

Person primarily liable for a rate on buildings or lands or both how to be designated if his name cannot be ascertained.

79. (*1*) When the name of the person primarily liable for the payment of a rate on buildings or lands or both in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment book, and in any notice which it may be necessary to serve upon the said person under this Act, "the holder" of such premises, without further description.

Occupier liable for a rate on buildings or lands or both until he gives information.

(*2*) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all rates on buildings or lands or both leviable on the premises of which he is in occupation.

Publication of notice of assessment-list.

80. When the assessment-list has been completed, the Chief Officer shall give public notice thereof and of the place where the list or a copy thereof may be inspected ; and every person claiming to be either the owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for lodging objections.

81. (*1*) The Chief Officer shall, at the time of the publication of the assessment-list under section 80, give public notice of a date, not less than one month after such publication, before which objections to the valuation or assessment in such list shall be made ; and in all cases in which any property is for the first time assessed or the assessment is increased, he shall also give notice thereof to the owner or occupier of the property, if known, and if the owner or occupier of the property is not known, he shall affix the notice in a conspicuous position on the property.

Objections how to be made.

(*2*) Objections to the valuation and assessment of any property in such list shall, if the owner or occupier of such property desires to make an objection, be made by such owner or occupier or any agent of such owner or occupier to the standing committee before the time fixed in the aforesaid public notice, by application in

writing, stating the grounds on which the valuation or assessment is disputed ; all applications so made shall be registered in a book to be kept by the standing committee for the purpose.

Hearing of objections.

(*3*) The standing committee, after allowing the applicant an opportunity of being heard in person or by agent, shall—

(*a*) investigate and dispose of the objections,

(*b*) cause the result thereof to be noted in the book kept under sub-section (*2*), and

(*c*) cause any amendment necessary in accordance with such result to be made in the assessment list :

Provided that powers and duties of the standing committee under this sub-section may be transferred to any other committee appointed by the municipality or with the permission of the Commissioner, to any officer or pensioner of [1][the Crown].

Authentication of list.

(*4*) When all objections made under this section have been disposed of and all amendments required by sub-section (*3*) have been made in the assessment-list, the said list shall be authenticated by the signatures of the chairman and at least one other member of the standing committee, or if the standing committee's powers and functions under sub-section (*3*) have been transferred to any other committee or to an officer or pensioner of [2][the Crown], by the signatures of not less than two members of such committee or of the officer or pensioner aforesaid ; the person or persons so authenticating the list shall certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been made therein.

Custody and inspection of list.

(*5*) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property entered therein or to the agents of such persons, and a notice that it is so open shall be forthwith published.

Authenticated list how far conclusive.

(*6*) Subject to such alterations as may be made therein under the provisions of section 82 and to the result of any appeal or revision made under section 110, the entries in the assessment-list so authenticated and deposited and the entries, if any, inserted in the said list under the provisions of section 82 shall be accepted as conclusive evidence—

(*i*) for the purposes of all municipal taxes, of the valuation, or annual letting value on the basis prescribed in the rules regulating the rate, of buildings, lands and both the buildings and lands to which such entries respectively refer, and

(*ii*) for the purposes of the rate for which such assessment-list has been prepared, of the amount of the rate leviable on such buildings or lands or both buildings and lands in any official year in which such list is in force.

Amendment of assessment-list. Notice of new buildings.

82. (*1*) The standing committee may at any time alter the assessment-list by inserting or altering an entry in respect of any property, such entry having been omitted from or erroneously made in the assessment-list through fraud, accident or mistake or in respect of any building constructed, altered, added to or reconstructed in whole or in part, where such construction, alteration, addition or reconstruction has been completed after the preparation of the assessment-list, after giving notice to any person interested in the alteration of the list of a date, not less than one month from the date of service of such notice, before which any objection to the alteration should be made.

[1] The words " the Crown " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " the Crown " were substituted for the words " the Government ", *ibid.*

Objections how dealt with.

(2) An objection made by any person interested in any such alteration, before the time fixed in such notice, and in the manner provided by sub-section (2) of section 81, shall be dealt with in all respects as if it were an application under the said section.

Effect of amendment.

(3) An entry or alteration made under this section shall subject to the provisions of section 110, have the same effect as if it had been made in the case of a building constructed, altered, added to or reconstructed on the day on which such construction, alteration, addition or reconstruction was completed or on the day on which the new construction, alteration, addition or reconstruction was first occupied, whichever first occurs, or in other cases, on the earliest day in the current official year on which the circumstances justifying the entry or alteration existed ; and the tax or the enhanced tax as the case may be shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year.

Notice to be given to the standing committee of demolition or removal of a building.

83. (1) When any building or any portion of a building which is liable to the payment of a rate or buildings or lands or both is demolished or removed, otherwise than by order of the standing committee, the person primarily liable for the payment of the said rate shall give notice thereof, in writing, to the Chief Officer.

(2) Until such notice is given the person aforesaid shall continue liable to pay every such rate as he would have been liable to pay in respect of such building, if the same, or any portion thereof, had not been demolished or removed.

(3) Provided that nothing in this section shall apply in respect of a building or portion of a building which has fallen down or been burnt down.

New assessment-list need not be prepared every year.

84. (1) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that every part of the assessment-list shall be completely revised not less than once in every four years, the Chief Officer may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following.

(2) But the provisions of sections 80, 81 and 82 shall be applicable every year as if a new assessment list had been completed at the commencement of the official year.

Tax from whom primarily leviable.

85. A tax imposed in the form of a rate on buildings or land or both shall be leviable primarily from the actual occupier of the property upon which the tax is assessed if he is the owner of the property, or holds it on a building or other lease from the [1][Crown] or from the municipality, or on a building lease from any person. Otherwise the tax shall be primarily leviable as follows, namely :—

(*a*) if the property is let from the lessor ;

(*b*) if the property is sublet, from the superior lessor ;

(*c*) if the property is unlet, from the person in whom the right to let the same vests :

Recovery from occupiers.

Provided that where the tax is based on the annual letting value, on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the property in respect of which it is due, as bears to the whole amount due the same ratio, which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said property, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment-list, whichever of those two amounts is the greater :

[1] The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation of Indian Laws Order in Council.

Provided, further, that for any sum paid by or recovered from any occupier who is not primarily liable under this section, he shall be entitled to credit in account with the person primarily liable for the payment of that sum. Remedy of occupier in such case.

86. (*1*) Where any building or land which is assessed to a rate based on the annual letting value and payable by the year, or in respect of which a special sanitary cess is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year or portion of the year for which the rate is leviable, or throughout the period in respect of which any such instalment is payable, the standing committee shall remit or refund not less than two-thirds of the amount of the rate, or of the cess or instalment of the cess, as the case may be: Remission of tax in case of vacancies: when obligatory.

Provided that no such remission or refund shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Chief Officer, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

(*2*) Where any such building or land as aforesaid— When discretional.

(*a*) has been vacant and unproductive of rent for any period of not less than sixty consecutive days, or

(*b*) consists of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(*c*) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value, the standing committee may remit or refund such portion, if any, of the rate, cess or instalment as it may think equitable.

(*3*) The burden of proving the facts entitling any person to claim relief under this section shall be upon him. Burden of proof on claimant.

(*4*) For the purposes of this section [1][(*a*) a dwelling-house within the limits of a municipal borough notified by [2][the Provincial Government] as a hill station municipal borough shall be deemed to be vacant notwithstanding the fact that it contains the furniture habitually used in it, if otherwise unoccupied; and (*b*)] a building or land shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenants or not. Explanatory clause.

87. (*1*) Whenever the title of any person primarily liable for the payment of a rate on buildings or lands or both to or over such land or buildings or both is transferred, [3][the person whose title is so transferred and] the person to whom the same is transferred shall, within three months after execution of the instrument of transfer, or after its registration if it be registered, or after the transfer is effected, if no instrument be executed, give notice of such transfer in writing to the Chief Officer. Notice to be given to the Chief Officer of all transfers of title of persons primarily liable to payment of a rate on buildings or lands.

(*2*) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred as heir or otherwise, shall give notice of such transfer to the Chief Officer within one year from the death of the deceased.

(*3*) If the person liable to give the notice referred to in sub section (*1*) or subsection (*2*) fails to give such notice he shall be punished with fine which may extend to fifty rupees.

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[1] These words were inserted by Bom. 12 of 1931, s. 3 (*ii*).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] These words were inserted by Bom. 24 of 1936, s. 2, Schedule.

Form of notice.

88. (*1*) The notice to be given under the last preceding section shall be in the form of Schedule III or Schedule IV, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

(*2*) On receipt of any such notice, the Chief Officer may, if he thinks it necessary, require the production of the instrument of transfer, if any, or a copy thereof, obtained under section 57 of the [1]Indian Registration Act, 1908. XVI of 1908.

Liability for payment of a rate on buildings or lands or both to continue in the absence of any notice of transfer.

89. (*1*) Every person primarily liable for the payment of a rate on buildings or lands or both who transfers his title to or over such building or land or both without giving notice of such transfer to the Chief Officer as aforesaid, shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of the said rate on the buildings or lands or both until he gives such notice, or until the transfer shall have been recorded by the standing committee.

(*2*) But nothing in this section shall be held to diminish the liability of the transferee for the said rate or to affect the prior claim of the municipality on the said buildings and lands conferred by section 112, for the recovery of the rate on the lands or buildings or both.

(*3*) *Power to charge fees.*

Fees may be charged for certain licences.

90. (*1*) When any licence is granted under this Act, or when permission is given thereunder for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the municipality, the authority granting or giving such license or permission may charge a fee for the same.

Levy of fees for unauthorized occupation or projection.

(*2*) The municipality may charge a higher fee by way of penalty for any erection, or projection, or for the use or occupation of any public street or other land vested in the municipality, by any person without its permission or licence. Such fee shall be leviable irrespective of any other penalty or other penalty or liability to which the person liable to pay the same may be subject under any other provision of this Act or any other law for the time being in force.

The rates of such higher fees shall be determined by rules.

Market and other fees.

(*3*) A Chief Officer may also charge such fees as may be fixed by by-laws under clause (*a*) of sub-section (*1*) of section 61, for the use of any such places mentioned in that clause as belong to the municipality and as may be fixed by by-laws under clause (*h*) of sub-section (*1*) of section 61 for stamping weights and measures.

(*4*) *Special provisions relating to certain taxes.*

Fixed charges and agreements for payment in lieu of taxes for water supplied.

91. (*1*) A municipality may, instead of imposing a water-rate or where a water-rate has been imposed, in individual cases, instead of levying a rate imposed in respect of the supply of water belonging to the municipality to or for use in connection with any private lands or buildings,—

(*a*) fix at rates not exceeding such as shall be specified in the rules in force under section 58, charges for such supply according to the quantity used, as ascertained by measurement; or

(*b*) arrange with any person on his application to supply on payment, periodical or otherwise, water belonging to the municipality, in such quantities or for such purposes, whether domestic, ornamental, or irrigational or for trade,

[1] Central Acts.

manufacture or any other purpose, on such terms and subject to such conditions as it shall fix by agreement with such person:

Provided that—

(*a*) the meters, connection-pipes and all other works necessary for and incidental to such supply, and all repairs, extensions an alterations of such works shall be under the control of the municipality and the expense thereof shall, so far as is not inconsistent with the rules or by-laws of the municipality, be defrayed by the persons liable for the charges or payments fixed in respect of such supply; and

(*b*) such supply of water shall be and shall be deemed to have been granted, subject to all such conditions as to the limit or stoppage thereof and as to the prevention of waste or misuse, as are prescribed in the by-laws for the time being in force under section 61.

Power to fix a special rate in lieu of special sanitary cess.

(*2*) Where a municipality has made provision for the cleansing of any factory, hotel or club or any group of buildings or lands used for any one purpose and under one management, it may, instead of levying in respect thereof any special sanitary cess imposed under this Chapter, fix a special rate and the dates and other conditions for periodical payments thereof; such rate, dates and conditions shall be determined either,

(*i*) in accordance with the rules for the time being in force under section 58, or

(*ii*) by written agreement with the person who would have been otherwise liable for the cess: provided that in fixing the amount of such rate proper regard shall be had to the probable cost to the municipality of the service to be rendered.

Power to compound tax on vehicles or animals.

(*3*) Where a municipality has imposed a tax on vehicles or animals used for riding, draught or burden and kept for such use within the municipal borough it may compound with the keeper of any livery-stable or of horses or vehicles kept for sale and hire for the payment of a lump sum for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

Recovery of sums claimed under this section.

(*4*) Every sum claimed by a municipality as due under sub-section (*1*) as charges, payments or expenses, or as a special rate under sub-section (*2*) or as a lump sum payable under sub-section (*3*), shall for the purposes of Chapter VIII be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of a tax recoverable under the said Chapter:

Provided that nothing in this section shall affect the right or power of a municipality to contract with any person to supply for use beyond the limits of the municipal borough, at such rates and on such conditions as the municipality may think fit, any quantity of water belonging to the municipality but not required for the purposes of this Act.

Taxes on pilgrims may be assigned in part to local boards.

92. Where a tax is imposed under this Act on pilgrims resorting periodically to a shrine within the limits of a municipal borough, the Commissioner may require the municipality of such borough to assign and pay to the district local board or to the taluka local board having authority in the taluka in which such municipal borough is situate, or partly to the said district local board and partly to the said taluka local board, such portion of the total collections on account of such tax as he shall deem fit; and the portion so assigned shall be expended by the said board or boards, within the areas respectively under their authority, on works conducive to the health, convenience and safety of the said pilgrims.

(*5*) *Octroi and Tolls.*

Octroi by-laws to be submitted with proposal for imposition

93. A municipality, when submitting for sanction a proposal for the imposition of octroi, shall submit therewith for sanction a draft of by-laws for the purposes of clause (*n*) of sub-section (*1*) of section 61, after observing the requirements of sub-sections (*2*) and (*3*) of that section.

Power to examine articles liable to octroi.

94. (*1*) A person bringing into or receiving from beyond the octroi limits of a municipal borough any animal or goods on which octroi is payable shall, when required by an officer authorized in this behalf by the Chief Officer and so far as may be necessary for ascertaining the amount of tax chargeable,—

(*a*) permit that officer to inspect, examine, weigh, and otherwise deal with such animal or goods ; and

(*b*) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to such animal or goods ;

(*c*) make a declaration in writing to that officer regarding the correctness and accuracy of the document shown to him.

Power to search where octroi is leviable.

(*2*) If any person bringing into or receiving from beyond the octroi limits of a municipal borough in which octroi is leviable, any conveyance or package, shall refuse on the demand of an officer authorized by the Chief Officer in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains anything in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistate or such officer of the municipality as [1][the Provincial Government] appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.

Presentation of bills for octroi.

95. An officer demanding octroi by the authority of the municipality shall tender to every person introducing or receiving anything on which the tax is claimed, a bill specifying the animal or goods taxable, the amount claimed, and the rate at which the tax is calculated.

Penalty for evasion of octroi.

96. Where any animal or goods passing into a municipal borough are liable to the payment of octroi, any person who, with the intention of defrauding the municipality, causes or abets the introduction of or himself introduces or attempts to introduce within the octroi limits of the said borough any such animal or goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the amount of such octroi or to fifty rupees, whichever may be greater.

Tables of tolls to be shown on demand.

97. A municipality imposing any toll under this Act shall cause to be kept at each place where such toll is to be collected, a table in the vernacular language of the district, showing the amounts leviable in all cases provided for in the rules including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments ; and it shall be the duty of every person authorized to demand payment of a toll, to show such table on the request of any person from whom such demand is made.

Power to seize vehicle or animal or goods on non-payment of octroi or toll.

98. (*1*) In the case of non-payment on demand of any octroi or of any toll leviable by a municipality, any person appointed to collect such octroi or toll may seize any animal or goods on which octroi is chargeable, or any vehicle or animal on which the toll is chargeable or any part of the burden of such vehicle or animal which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, animal or thing seized, a list of the property together with a written notice in the form of Schedule VII.

Power to sell property seized at once.

(*2*) When any property seized is subject to speedy decay, or when the expense of keeping it together with the amount of the octroi or toll chargeable is likely to exceed its value, the person seizing such property may inform the person in whose possession it was that it will be sold at once ; and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded be forthwith paid.

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

(*3*) If at any time before a sale has begun, the person from whose possession the property has been seized, tenders at the municipal office the amount of all expenses incurred and of the octroi or toll payable, the Chief Officer shall forthwith deliver to him the property seized. Release of property on payment.

(*4*) If no such tender is made, the property seized may be sold, and the proceeds of such sale shall be applied in payment of such octroi, or toll and the expenses incidental to the seizure, detention and sale. Sale.

(*5*) The surplus, if any, of the sale-proceeds shall be credited to the municipal fund, and may, on application made to the Chief Officer in writing within three years next after the sale, be paid to the person in whose possession the property was when seized, and if no such application is made, shall be the property of the municipality. Surplus how dealt with.

99. The standing committee, if it thinks fit, instead of requiring payment of octroi due from any person, mercantile firm or public body to be made at the time when the animals or goods in respect of which the octroi is leviable are introduced within the octroi limits of the municipal borough, may at any time direct that an account-current shall be kept on behalf of the municipality of the octroi so due from such person, firm or body. Such account shall be settled at intervals not exceeding one month, and such person, firm or public body shall give such information or details and make such deposit or furnish such security as the standing committee or any officer authorized by it in this behalf shall consider sufficient to cover the amount which may at any time be due from such person, firm or body in respect of such dues. Any amount so due at the expiry of any such interval shall, for the purposes of Chapter VIII, be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of any tax recoverable under the said Chapter. Power to keep account-current with person, firm or public body in lieu of levy in octroi on introduction of goods.

100. Where any agreement such as is referred to in clause (*b*) of sub-section (*1*) of section 47 has been entered into such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf, shall have the same power to establish such octroi limits and octroi stations as that body may deem necessary for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of [1][the Act under which that body is constituted] relating to octroi shall apply in the same way as if the limits so established were wholly comprised within the area subject to the control of [2][that body]; and the collections made and the costs, thereby incurred shall, subject to the provisions of section 44, be divided between the bodies entering into the agreement, in such proportions as shall have been determined in the agreement. Collection of octroi by one public body on behalf of others.

101. (*1*) It shall be lawful for a municipality to lease by public auction or private contract the levy of any toll that may be imposed under this Act: Farming of tolls.

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

(*2*) Where any toll has been leased under this section, any person employed by the lessee to collect such toll shall, subject to the conditions of the lease, execute the powers and perform the duties conferred and imposed by sub-sections (*1*) and (*2*) of section 98 on a person appointed to collect a toll, and any property seized shall be dealt with as if it had been seized under the provisions of that section: Persons employed by lessee of toll to have power of seizure.

Provided that no property seized may be sold except under the orders of the Chief Officer.

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[1] The words "the Act under which that body is constituted" were substituted for the words "this Act" by Bom. 14 of 1934, s. 4 (*2*) (*i*).

[2] The words "that body" were substituted for the words "the body by which they are so established". *ibid*, s. 4 (*2*) (*ii*).

(6) Powers of Provincial Government in respect of municipal taxes.

Power of Provincial Government to suspend levy of objectionable taxes.

102. If it shall at any time appear to [1][the Provincial Government] on complaint made or otherwise that any tax leviable by a municipality is unfair in its incidence, or that the levy thereof or of any part thereof is obnoxious to the interest of the general public, it may require the municipality, within such period as [1][the Provincial Government] shall fix in this behalf, to take measures for removing any objection which appears to it to exist to the said tax; and if, within the period so fixed, such requirement shall not be carried into effect to the satisfaction of [1][the Provincial Government], it may, by notification in the [2][*Official Gazette*], suspend the levy of such tax, or of such part thereof, until such time as the objection thereto shall be removed.

[1][The Provincial Government] may at any time, by a like notification, rescind any such suspension.

Power of Provincial Government to require municipalities to impose taxes.

103. Where it appears to [1][the Provincial Government] that the balance of the municipal fund of a municipality is insufficient for meeting any expenditure incurred under section 215 or for the performance of any duties for the performance of which [1][the Provincial Government] has directed the Commissioner to fix a period under section 218 [1][the Provincial Government] may by notification require the municipality to impose, within the municipal borough, any tax specified in the notification which may be imposed under section 73 and which is not at the time imposed within the said borough or to enhance any existing tax in such manner or to such extent as [1][the Provincial Government] considers fit; and the municipality shall forthwith proceed to impose or enhance, in accordance with the requisition, such tax under the provisions of this Chapter as if a resolution of the municipality had been passed for the purpose under section 75:

Provided that—

(*a*) [1][the Provincial Government] shall take into consideration any objection which the municipality or any inhabitant of the municipal borough may make against the imposition or enhancement of such tax;

(*b*) it shall not be lawful for the municipality to abandon or modify or to abolish such tax when imposed;

(*c*) [1][the Provincial Government] may at any time cancel or modify any requisition made by it under this section and the levy of the tax or the enhancement, except as to arrears theretofore accrued due, shall thereupon cease or be modified accordingly.

CHAPTER VIII.

Recovery of Municipal Claims.

Presentation of bill for taxes.

104. (*1*) When any amount,

(*a*) which by or under any provisions of this Act, is declared to be recoverable in the manner provided by this Chapter, or

(*b*) which, not being leviable under sub-section (*1*) of section 98 or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which now is imposed or hereafter may be imposed in any municipal borough,

shall have become due, the Chief Officer shall, with the least practicable delay, cause to be presented to any person liable for the payment thereof, a bill for the sum claimed as due.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid*

(2) Every such bill shall specify the period of which, and the property, occupation or thing in respect of which the sum is claimed and shall also give notice of the liability incurred in default of payment and of the time within which an appeal may be preferred as hereinafter provided against such claim. Contents of bill.

(3) If the sum for which any bill has been presented as aforesaid is not paid at the municipal office or to a person authorized by any rule in that behalf to receive such payments, within fifteen days from the presentation thereof, the Chief Officer may cause to be served upon the person to whom such bill has been presented, a notice of demand in the form of Schedule V, or to the like effect. If bill not paid within fifteen days, notice of demand to issue.

105. (1) If the person on whom a notice of demand has been served under section 104, sub-section (3), does not, within fifteen days from the service of such notice, either— In what cases warrant may issue.

(a) pay the sum demanded in the notice, or

(b) show cause to the satisfaction of the Chief Officer, why he should not pay the same, or

(c) prefer an appeal in accordance with the provisions of section 110 against the demand,

such sum with all costs of the recovery may be levied under a warrant signed by the Chief Officer in consultation with the President in the form of Schedule VI or to the like effect, by distress and sale of the moveable property or the attachment and sale of the immovable property of the defaulter: provided that where any measures precautionary or otherwise, have been taken in respect of any such property for the recovery of any sum claimed by [1][the Provincial Government], any proceedings under this Chapter in respect of such property shall abate.

(2) Where the property is in the municipal borough the warrant shall be addressed to an officer of the municipality. Where the property is in another municipal borough or disrict, the warrant shall be addressed to the Chief Officer in the municipal borough or to the vice-president in the municipal district, as the case may be; [2][where the property is in a cantonment the warrant shall be addressed to the Executive Officer of the Cantonment]; and where the property is not in a municipal borough or district [2][or Cantonment], to a Government officer not lower in rank than a Mahalkari: provided that such Chief Officer, vice-president, [2][Executive Officer] or Government officer may endorse such warrant to a subordinate officer. Where the property is in the City of Bombay, the warrant shall be addressed to the Registrar of the Court of Small Causes of Bombay: To whom warrant should be addressed.

Provided that the Registrar may endorse such warrant to a subordinate officer.

(3) It shall be lawful for any officer to whom a warrant issued under sub-section (1) is addressed or endorsed, if the warrant contains a special order authorizing him in this behalf, to break open at any time between sunrise and sunset any outer or inner door or window of a building, in order to make any distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance he cannot otherwise obtain admittance: Power of entry under special order.

Provided that such officer shall not enter or break open the door of any apartment appropriated for women, until he has given three hours' notice of his intention and has given such women an opportunity to remove.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 4 of 1930, s. 4.

Warrant how to be executed.

(*4*) It shall also be lawful for any such officer, if authorized by the warrant, to distrain, wherever it may be found, any movable property or attach any immovable property of the person named in the warrant issued under sub-section (*1*) as defaulter, subject to the following conditions, exceptions and exemptions, namely :—

(*a*) the following property shall not be distrained :—

(*i*) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(*ii*) the tools of artizans,

(*iii*) when the defaulter, is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood ;

(*b*) the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant ; and if any property has been distrained which, in the opinion of the Chief Officer or of the person to whom the warrant was addressed, should not have been so distrained, it shall forthwith be returned to the defaulter ;

(*c*) the officer shall on distraining or attaching the property forthwith make an inventory thereof, and give to the person in possession thereof at the time of distraint or attachment a written notice in the form of Schedule VII ;

(*d*) (*i*) when the property is immovable, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge ;

(*ii*) the order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and then upon a conspicuous part of the municipal office, and also, when the property is land paying revenue to [1][the Provincial Government], in the office of the Collector of the district in which the land is situate ;

(*e*) any transfer of or charge on the property attached or of any interest therein made without the written permission of the Chief Officer shall be void as against all claims of the municipality enforceable under the attachment ;

Sale of goods distrained in special cases.

106. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the Chief Officer shall at once give notice to the person in whose possession the property was, when distrained, to the effect that it will be sold at once ; and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

Sale of property distrained or attached ; application of proceeds of sale.

(*2*) If not sold at once under sub-section (*1*), the property distrained or attached or in the case of immovable property a sufficient portion thereof may, unless the warrant is suspended by the Chief Officer or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress or attachment and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the Chief Officer, and the proceeds or such part thereof as shall be requisite, shall be applied firstly in discharge of any sum due to [2][the Provincial Government] in respect of such property and secondly in discharge of the sum due and of all such incidental costs as aforesaid. Where the sum due together with costs is paid by the

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the word " Government ", *ibid.*

defaulter as aforesaid, the attachment if any of immovable property shall be deemed to have been removed. Sales of immovable property under this sub-section shall be held in the manner laid down in the rules framed in that behalf.

(*3*) The surplus, if any, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the person in whose possession the property was at the time of distraint or attachment; if such person shall claim the surplus by written application to the Chief Officer within three years from the date of the notice given under this sub-section, the Chief Officer shall refund the surplus to such person. Any sum not claimed within [1][three years] from the date of such notice shall be the property of the municipality. Surplus, if any, how dealt with

107. Where the warrant is addressed outside the municipal borough the Chief Officer may by endorsement direct the officer or Registrar of the Court of Small Causes of Bombay to whom the warrant is addressed, to sell the property distrained or attached; in such case it shall be lawful for such officer or Registrar to sell the property and to do all things incidental to the sale in accordance with the provisions of section 106, and to exercise the powers and perform the duties of the Chief Officer under section 106, sub-sections (*1*) and (*2*), in respect of such sale, except the power of suspending the warrant. Such officer or Registrar shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the Chief Officer by whom it was issued who shall dispose of the same in accordance with the provisions of section 106. Sale outside the district.

108. Fees for every notice issued under sub-section (*3*) of section 104, [2][every warrant issued under sub-section (*1*) of section 105 or distress or attachment made under sub-section (*4*) of the said section] and the maintenance of any live-stock seized under the said sub-section shall be chargeable at the rates respectively specified in such behalf in the rules of the municipality and shall be included in the costs of recovery to be levied under section 105. Fess and costs chargeable.

109. (*1*) If the Chief Officer shall at any time have reason to believe that any person from whom any sum recoverable under the provisions of this Chapter is due or is about to become due, is about forthwith to remove from the municipal borough, the Chief Officer may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him. Summary proceedings may be taken against persons about to leave the borough.

(*2*) If, on presentation of such bill, the said person do not forthwith pay the sum due or about to become due by him the amount shall be leviable by distress and sale of the moveable property or the attachment and sale of the immovable property of the defaulter in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand and the Chief Officer's warrant for distress and sale may be issued and executed without any delay.

110. (*1*) Appeals against any notice of demand issued under sub-section (*3*) of section 104 may be made to any Magistrate or Bench of Magistrates by whom under the direction of the [3][Chief Presidency Magistrate in respect of the areas specified in Part II of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, or of the District Magistrates in respect of other areas,] such class of cases is to be tried. Appeals to Magistrates.

Bom. XVII of 1945.

[1] These words were substituted for the words "one year" by Bom. 4 of 1930, s. 4.

[2] These words were substituted for the words "every distress or attachment made under sub-section (*4*) of section 105" by Bom. 12 of 1931, s. 3 (*iii*).

[3] This portion was substituted for the words "District Magistrate" by Bom. 1 of 1947, s. 7.

(*2*) No such appeal shall be heard and determined unless—

(*a*) the appeal is brought within fifteen days next after service of the notice of demand complained of; and

(*b*) an application in writing, stating the grounds on which the claim of the municipality is disputed, has been made to the standing committee as follows :—

(*i*) in the case of a rate on buildings or lands or both within the time fixed in the notice given under section 81 or 82 of the assessment or alteration thereof, according to which the bill is prepared,

(*ii*) in the case of any other claim for which a bill has been presented under sub-section (*1*) of section 104 within fifteen days next after the presentation of such bill; and

(*c*) the amount claimed from the appellant has been deposited by him in the municipal office.

Entries in the assessment list and taxes and decisions to be final.

111. (*1*) Every entry in the assessment list made under the provisions of this Act against which no objection is made as hereinbefore provided, and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and the decision of the Magistrate or Bench of Magistrates upon any appeal shall, at the instance of either party, be subject to revision by the Court to which appeals against his or their decisions ordinarily lie.

(*2*) Effect shall be given by the Chief Officer to every decision of the said Magistrate or Bench of Magistrates on any appeal or any decision in revision on such appeal against any such entry or tax.

Liability of land, buildings, etc., for rates.

112. All sums due on account of any tax imposed in the form of a rate on lands or buildings or both shall, subject to prior payment of land-revenue, if any, due to His Majesty thereupon, be a first charge upon the building or land, in respect of which such tax is leviable and upon the moveable property, if any, found within or upon such building or land, and belonging to any person liable for such tax:

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner if such arrears have been due for more than one year or for a period during which such occupier was not in occupation.

Receipts to be given for all payments.

113. For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving such payments.

CHAPTER IX.

Municipal Powers and Offences.

(*1*) *Powers in respect of streets.*

Power regarding public streets, etc.

114. (*1*) It shall be lawful for a municipality to lay out and make new public streets; to construct tunnels and other works subsidiary to public streets; to widen, open, enlarge or otherwise improve, and to turn, divert, discontinue or stop up any public street; and, subject to the provisions of sub-section (*2*) of section 48 to lease or sell any such land, theretofore used or acquired by the municipality for the purposes of such streets, as may not be required for any public street or for any other purposes of this Act:

[1][Provided that no public street shall be permanently discont stopped up or used for any other purposes of this Act without the previous sanction of the Commissioner.]

Acquisition of adjacent land to form street.

(2) In laying out, making, turning, diverting, widening, opening, enlarging or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the municipality may purchase the land required for the construction of houses and buildings to form the said street; and, subject to the provisions contained in sub-section (2) of section 48, may sell and dispose of such additional land in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as it may think fit.

Power to require repair, etc., of private streets.

115. (1) Where the standing committee considers that in any street not being a public street, or in any part of such street, within the municipal borough, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the standing committee may by written notice require the respective owners of the lands or buildings fronting, adjoining or abutting upon such street or part thereof, to carry out such work in a manner and within a time to be specified in such notice.

And to declare such streets public.

(2) After such work has been carried out by such owners or, as provided in section 194 by the municipality at the expense of such owners, the street or part thereof in which such work has been done may, and on the joint requisition of a majority of the said owners shall, be declared by a public notice, put up therein by the standing committee, to be a public street.

Apportionment of expenses in default.

(3) If the notice under sub-section (1) is not complied with and such work is executed by the municipality as provided in section 194, the expenses thereby incurred shall be apportioned by the standing committee between such owners in such manner as it may think fit, regard being had, if it deems it necessary, to the amount and value of any work already done by the owners or occupiers of any such lands or buildings.

Power to declare any street a public street subject to objections by the owners.

116. The standing committee may, at any time, by notice fixed up in any street or part of a street not maintainable by the municipality, give intimation of its intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or the majority of the several owners of such street or such part of a street lodges or lodge objections thereto at the municipal office, the municipality may by notice in writing put up in such street, or such part, declare the same to be a public street.

New private streets.

117. (1) Every person intending to lay out or make any new street, shall give notice in writing thereof to the Chief Officer and shall furnish plans and sections showing the intended level, means of drainage, direction and width of such street, and such other particulars as may be required by the by-laws in force in this behalf; and save as hereinafter provided, the level, means of drainage, direction and width of every such street shall be fixed or approved by the standing committee.

Power of municipality to pass interim orders.

(2) Before passing orders under sub-section (1), the standing committee may either issue a provisional order directing that for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with or a demand for further particulars.

[1] This proviso was added by Bom. 19 of 1935, s. 9.

Right to proceed in certain cases.

(*3*) If—

(*a*) within one month from the receipt of the notice given under sub-section (*1*) the standing committee has neither—

(*i*) passed orders and served notice thereof either fixing or disapproving the proposals submitted under sub-section (*1*) with regard to level, means of drainage, direction and width of the street, nor

(*ii*) under sub-section (*2*) issued any provisional order or demand for further particulars, or if

(*b*) the standing committee, having issued such demand for and having received in accordance with the demand such further particulars, has issued no further orders within one month from the receipt of such particulars,

then the street may be laid out and made, in such manner as may have been specified in the notice under sub-section (*1*) and as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder.

Penalty.

(*4*) Whoever lays out or makes any such street either without giving the notice required by sub-section (*1*) or, except in accordance with the provisions of sub-section (*3*), without awaiting, or otherwise than in accordance with the instructions issued by the standing committee, or in any manner contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to two hundred and fifty rupees; and the standing committee may cause any street so laid out or made to be altered, and any building constructed in such street to be altered or removed and the expense thereby incurred shall be paid to it by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

The regular line of a public street.

118. (*1*) The Chief Officer shall subject to the approval of the municipality, prescribe a line on each side of every public street within the municipal borough and may from time to time prescribe a fresh line in substitution for any line so prescribed or for any part thereof:

Provided that—

(*a*) at least one month previous to prescribing such line or such fresh line, as the case may be, the Chief Officer shall give public notice of the proposal and shall put up special notice thereof in the street or part of the street for which such line or such fresh line is proposed to be prescribed;

(*b*) the Chief Officer shall comply with any orders passed by the municipality after considering any written objection or suggestion in regard to such proposal, delivered at the office of the municipality within such time as may be specified in such public or special notice.

(*2*) The line for the time being so prescribed shall be called "the regular line of the public street".

(*3*) (*a*) Except under the provisions of section 143 no person shall construct or reconstruct any portion of any building within the regular line of the public street without the permission of the Chief Officer under section 123.

(*b*) Where the Chief Officer refuses permission to construct or reconstruct any building in any area within the regular line of the public street, such area shall with the approval of the municipality be added to the street and shall thenceforth be deemed part of the public street and shall be vested in the municipality.

(*c*) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198, shall be paid by the municipality to the owner of any land added to a street under clause (*b*) of sub-section (*3*) for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken or order passed by the Chief Officer under the said sub-section :

Provided that no such compensation shall be payable in cases to which section 149 applies.

(*4*) Whoever contravenes the provisions of sub-section (*3*) shall be punished with fine which may extend to one thousand rupees and, in the case of a continuing contravention with an additional fine which may extend to rupees ten for every day during which such contravention continues after the conviction for the first such contravention, and the Chief Officer may—

(*a*) direct that the building be stopped, and

(*b*) with the previous sanction of the standing committee, by written notice, require such building or portion thereof to be altered or demolished in accordance with the provisions of such notice.

(*2*) *Powers to regulate buildings, etc.*

Setting projecti building

119. (*1*) If any part of a building projects beyond the regular line of a public street as prescribed under section 118 or beyond the front of the building on either side thereof, the municipality may,—

(*a*) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or

(*b*) if the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projection part has been taken down or burned down or has fallen down,

require by written notice either that the part or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed ; or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. The portion of land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the municipality.

Acquisi of land is withi regular of a street and open or occupied only by platforms, etc.

(*2*) If any land not vested in the municipality, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building other than a platform, verandah, step or other structure external to a main building, the municipality after giving the owner of the land not less than fifteen clear days' written notice of his intention, or if the land is vested in His Majesty, then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, if any, and, if necessary, clear the same ; and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the municipality.

Compensation payable by the municipality.

(*3*) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198 shall be paid by the municipality to the owner of any land added to a street under sub-section (*1*) or acquired under sub-section (*2*), for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in

consequence of any action taken by the municipality under either of the said sub-sections : provided that no such compensation shall be payable in cases to which section 149 applies.

(*4*) When the amount of compensation has been so ascertained and determined, or when a ruinous or dangerous building falling under sub-section (*1*) has been taken down under the provisions of section 149 the municipality may, after tendering the amount of compensation, if any, as may be payable, take possession of the land so added to the street, and, if necessary, may clear the same.

Setting forward to regular line of street.

120. (*1*) The standing committee may, upon such terms as it thinks fit, allow any building to be set forward for improving the line of any public street in which such building is situated.

(*2*) If the land which will be included in the premises of any person permitted under sub-section (*1*) to set forward a building belongs to the municipality, the permission of the standing committee to set forward the building shall be a sufficient conveyance to the said owner of the said land ; and the price to be paid to the municipality by the said owner for such land and the other terms and conditions of the conveyance shall be set forth in the said permission.

Roofs and external walls of buildings not to be made of inflammable materials.

121. (*1*) The external roofs and walls of buildings constructed or renewed after the coming into force of this Act, shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable material except with the written consent of the Chief Officer which may be given either specially in individual cases, or generally in respect of any area specified therein.

Power to require removal of roof and wall if inflammable.

(*2*) The Chief Officer may at any time by written notice require the owner of any building which has an external roof or wall made of any such material as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice whether such roof or wall was or was not made before the time at which this Act came into force, and whether it was made with or without the consent of the Chief Officer.

(*3*) An appeal shall lie to the standing committee against any order of the Chief Officer refusing the consent under sub-section (*1*) or against any notice given by the Chief Officer under sub-section (*2*) if made within fifteen days of the receipt of such refusal or notice, as the case may be.

Penalty.

(*4*) Whoever without such consent as is required by sub-section (*1*), makes, or causes to be made, or in disobedience to the requirements of a notice given under sub-section (*2*) suffers to remain, any roof or wall of such material as aforesaid, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day on which the offence is continued after the date of the first conviction.

Level of buildings.

122. No building shall hereafter be constructed upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the municipality, or into some stream or river or into the sea or some cesspool or other suitable place which may be approved of by the Chief Officer.

Notice of new buildings.

123. (*1*) Before beginning to construct any building or to alter externally or add to any existing building, or to construct or reconstruct any projecting portion of a building in respect of which the standing committee is empowered by section 119 to enforce a removal or setback, or to construct or reconstruct which the Chief

Officer is empowered by section 118 to give permission, the person intending so to construct, alter, add or reconstruct shall give to the Chief Officer notice thereof in writing and shall furnish to him at the same time, if required by a by-law or by special order to do so, a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the Chief Officer, and all information required by the by-laws or demanded by the Chief Officer regarding the limits, design, ventilation, and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water-closets, and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets, and the purpose for which the building will be used.

Power of Chief Office to pass orders.

(*2*) Save as otherwise provided in this Act or the rules and by-laws thereunder, the Chief Officer may either give permission to construct, alter, add or reconstruct according to the plan and information furnished or may impose in writing conditions, in accordance with this Act and the rules and by-laws made thereunder, as to level, drainage, sanitation, materials or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation or to the number of storeys to be erected, or with reference to the location of the building in relation to any street existing or projected, or the purpose for which the building is to be used, or may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to his satisfaction.

(*3*) The municipality may, before any work has been commenced in pursuance of any permission granted by the Chief Officer under sub-section (*2*), revoke such permission and may give fresh permission in lieu thereof on such conditions, in accordance with this Act and the rules and by-laws made thereunder, with reference to the matter mentioned in the said sub-section, as it thinks proper, and may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to its satisfaction.

Or to suspend the work or require further particulars.

(*4*) Before issuing any orders under sub-section (*2*), the Chief Officer may, within one month from the receipt of such notice, either issue—

(*a*) a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(*b*) may demand further particulars.

Right to proceed in certain cases.

(*5*) A work proposed in a notice given under sub-section (*1*) may be proceeded with in the manner specified in such notice, provided such manner is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder in the following cases, namely :—

(*a*) in case the Chief Officer within one month from the receipt of the notice given under sub-section (*1*) has neither—

(*i*) passed orders under sub-section (*2*) and served notice thereof in respect of the intended work; nor

(*ii*) issued under sub-section (*4*) any provisionsal order or any demand for further particulars;

(*b*) in case the Chief Officer having issued such demand for and having received such further particulars, has issued no further orders within one month from the receipt of such particulars.

Commencement of work.

(*6*) No person who becomes entitled under sub-section (*2*) or (*5*) to proceed with any intended work of which notice is required by sub-section (*1*) shall commence such work after the expiry of the period of one year from the date on which he first became entitled so to proceed therewith, unless he shall have again become so entitled by a fresh compliance with the provisions of sub-sections (*1*) to (*5*). And no person to whom permission to erect or alter or add to any building has been granted by the municipality under section 96 of the Bombay District Municipal Act, 1901, shall be entitled to commence such work after the expiry of one year from the date on which this Act comes into force. Bom. III of 1901.

(*7*) Whoever begins any construction, alteration, addition or reconstruction without giving the notice required by sub-section (*1*) or without furnishing any plan, information or particulars required by or under this section, or, except as provided in sub-section (*5*), without awaiting or in any manner contrary to such legal orders of the Chief Officer as may be issued under this section or contrary to the provisions of sub-section (*5*) or (*6*) or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to one thousand rupees ; and in the case of a continuing contravention of any of the aforesaid provisions, he shall be liable to an additional fine which may extend to ten rupees, for each day during which such contravention continues after conviction for the first such contravention ; and the Chief Officer may—

(*a*) direct that the construction, alteration, addition or reconstruction be stopped, and

(*b*) upon a conviction being obtained under sub-clause 7 by written notice, require such construction, alteration, addition or reconstruction to be altered or demolished in accordance with the provisions of such notice.

(*8*) The Chief Officer may at any time inspect any work of which notice is required by sub-section (*1*) without giving notice of his intention to do so ; and at any time during the execution of any such work as aforesaid, may, by written notice, specify any matter in respect of which the execution of such work is in contravention of any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under this section ; and require the person executing such work to cause anything done contrary to any such provision or by-law or order to be amended or to do anything which by any such provision or by-law or order he is required to do but which has been omitted.

Explanation.—The expression " to construct a building " throughout this Chapter includes—

(*a*) any material alteration, enlargement or reconstruction of any building, or of any wall, verandah, fixed platform, plinth, doorstep or the like, whether constituting part of a building or not,

(*b*) the conversion into a place for human habitation of any building not originally constructed for human habitation,

(*c*) the conversion into more than one place for human habitation of a building originally constructed as one such place,

(*d*) the conversion of two or more places of human habitation into a greater number of such places,

(*e*) such alterations of the internal arrangements of a building, as affect its drainage, ventilation or other sanitary arrangements, or its security or stability, and

(*f*) the addition of any rooms, buildings, or other structures to any building, and a building so altered, enlarged, reconstructed, converted or added to, is throughout this Chapter included under the expression "a new building".

Completion certificates; permission to occupy or use.

124. (*1*) Every person erecting a building or executing a work as described in sub-section (*1*) of section 123 shall, within one month after the completion of the erection of such building or the execution of such work, deliver or send or cause to be delivered or sent to the Chief Officer at his office, notice in writing of such completion, and shall give to the Chief Officer all necessary facilities for the inspection of such building or of such work :

Provided that—

(*a*) such inspection shall be commenced within seven days from the date of receipt of the notice of completion ; and

(*b*) the Chief Officer may, not later than one month from the date of receipt of the notice of completion by written intimation addressed to the person from whom the notice of completion was received, and delivered at his address as stated in such notice or, in the absence of such address, affixed to a conspicuous part of the building to which such notice relates,

(*i*) give permission for the occupation of such building or for the use of the building or part thereof affected by such work, or.

(*ii*) refuse such permission in case such building has been erected or such work expected so as to contravene any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under section 123 intimating to the person who gave the notice under sub-section (*1*) of section 123 the reasons for such refusal and requiring suchperson, or, if the person responsible for giving notice under sub-section (*1*) of section 123 is not at the time of such notice the owner of such building or work, then such owner to cause anything which is contrary to any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under section 123 to be amended or to do anything which by any such provision or by-law or order he is required to do but which has been omitted.

(*2*) No person shall occupy or permit to be occupied any such building, or use or permit to be used the building or part thereof affected by any such work, until

(*a*) the permission referred to in proviso (*b*) to sub-section (*1*) has been received, or

(*b*) the Chief Officer has failed for one month after the receipt of the notice of completion to intimate as aforesaid his refusal of the said permission.

(*3*) Whoever contravenes the provisions of this section or fails to comply with any order or requisition made thereunder shall be punished with fine which may extend to one hundred rupees and, in the case of a continuing contravention or noncompliance, with an additional fine which may extend to ten rupees for everyday during which such contravention or non-compliance continues after the conviction for the first such contravention or non-compliance.

Regulation of huts.

125. It shall not be lawful for any person to erect any hut or shed or range or block of huts or sheds or to add any hut or shed to any range or block of huts or sheds already existing when this Act comes into operation, without giving previous notice to the Chief Officer ; the Chief Officer may require such huts or sheds to be built so that they stand in regular lines, with a free passage or way in front of and between every two lines, of such width as the Chief Officer may think proper.

for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage; and may require such huts to be provided with such number of privies and such means of drainage as he may deem necessary. If any hut or shed or range or block be built without such notice being given to the Chief Officer or otherwise than as required by the Chief Officer, the Chief Officer may give written notice to the owner or builder thereof, or to the owner or occupier of the land on which the same is erected or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the Chief Officer may think fit.

Improvement of huts.

126. (*1*) Where the standing committee is of opinion that any hut or shed whether used as a dwelling or as a stable or for any other purpose, and whether existing at the time when this Act comes into operation or subsequently erected, is by reason—

(*a*) of insufficient ventilation or of the manner in which such hut or shed is crowded together with other huts or sheds, or

(*b*) of the want of a plinth or of a sufficient plinth or of sufficient drainage, or

(*c*) of the impracticability of scavenging,

attended with risk of disease to the inhabitants of the neighbourhood, it shall cause a notice to be affixed to some conspicuous part of such hut or shed, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the standing committee in this behalf, to take down and remove such hut or shed, or to carry out such alterations or works as the standing committee may deem necessary for the avoidance of such risk.

(*2*) Where any such owner or occupier refuses or neglects to take down and remove such hut or shed or to carry out such alterations or works within the time appointed, the Chief Officer may cause such hut or shed to be taken down, or such alterations or works to be carried out, in accordance with the requirements of the standing committee.

(*3*) Where such hut or shed is taken down by the Chief Officer, the said officer shall cause the materials of the hut or shed to be sold, if such sale can be effected; and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner is unknown or the title disputed, shall be held in deposit by the municipality until the person interested therein shall obtain an order of a competent Court for the payment of the same:

Provided always that where a hut or shed, existing at the time when the land on which it is situate first became part of a municipal district or borough, is taken down and removed under this section, compensation shall further be paid to the owner or owners thereof and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 198.

(3) Powers connected with drainage, etc.

Municipal control over drains, etc.

127. (*1*) All sewers, drains, privies, water-closets, house-gullies and cesspools within the municipal borough shall be under the survey and control of the municipality.

(*2*) All covered sewers, drains, and cesspools, whether public or private, shall be provided by the municipality or other persons to whom they severally belong, with proper traps or other means of ventilation; and the Chief Officer may by written

notice call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

Powers for making and repairing drains.

128. (*1*) It shall be lawful for a municipality for any drainage purposes to carry any drain, sewer, conduit, tunnel, culvert, pipe or watercourse through, across or under any street or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal borough.

(*2*) A municipality, or any person acting under its authority, may construct a new drain in the place of an existing drain in any land wherein any drain vested in the municipality has been already constructed, or repair or alter any drain vested in the municipality.

(*3*) In the exercise of any power under this section no unnecessary damage shall be done, and compensation, which shall in case of dispute be ascertained and determined in the manner provided in section 198 shall be paid by the municipality to any person who sustains damage by the exercise of such power.

Power to require sufficient drainage of houses.

129. (*1*) If any building or land be at any time undrained, or not drained to the satisfaction of the Chief Officer, the Chief Officer, subject to the control of the standing committee, may by written notice call upon the owner to construct or lay from such building or land a drain or pipe of such size and materials, at such level, and with such fall as he may think necessary for the drainage of such building or land into—

(*a*) some drain or sewer, if there be a suitable drain or sewer within fifty feet of any part of such building or land, or

(*b*) a covered cesspool to be provided by such owner and approved by the Chief Officer.

New buildings not to be erected without drains.

130. (*1*) It shall not be lawful to construct or reconstruct any building, or to occupy any building newly constructed or reconstructed, unless and until—

(*a*) a drain be constructed of such size, materials and description, at such level and with such fall, as shall appear to the Chief Officer to be necessary for the effectual drainage of such building;

(*b*) there have been provided for and set up in such building and in the land appurtenant thereto, all such appliances and fittings as may appear to the Chief Officer to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land, and of effectually flushing the drain of the said building and every fixture connected therewith.

(*2*) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place set apart by the municipality for the discharge of drainage, situate at a distance not exceeding fifty feet from such building; but if there is no such drain or place within that distance, then such drain shall empty into a cesspool provided by the owner of such building and approved by the Chief Officer.

Powers of owners and occupiers of buildings or lands to drain into municipal drains.

131. (*1*) The owner or occupier of any building or land within the municipal borough shall be entitled to cause his drains to empty into a municipal drain : provided that he first obtains the written permission of the Chief Officer, and that he complies with such conditions as the Chief Officer may prescribe as to the mode in which and the superintendence under which the communications are to be made between drains not vested in the municipality and drains which are so vested.

(*2*) An appeal shall lie to the standing committee against any order of the Chief Officer under sub-section (*1*) if made within fifteen days of the receipt of such order.

Right to carry drain through land or into drain belonging to other persons.

132. (*1*) If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of a drain to be constructed through land, or to be connected with a drain, belonging to or occupied by or in the use of some other person, he may make a written application in that behalf to the Chief Officer.

(*2*) Subject to the control of the standing committee the Chief Officer thereupon, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised or if any objection which is raised is in his opinion insufficient, by an order in writing authorize the applicant to carry his drain into, through, or under the said land, or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to him to be adequate and equitable.

(*3*) Every such order shall be a competent authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner, occupier or user of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner, occupier, or user reasonable notice in writing, to enter upon the land specified in the said order with assistants and, workmen at any time between sunrise and sunset and, subject to all provisions of this Act, to do all such work as may be necessary :

(*a*) for the construction or connection of the drain, as may be authorised by the said order ;

(*b*) for renewing, repairing, or altering the same as may be necessary from time to time ; or

(*c*) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

(*4*) In executing any work under this section as little damage as possible shall be done, and the owner or occupier of the buildings or lands for the benefit of which the work is done, shall—

(*a*) cause the work to be executed with the least practicable delay ;

(*b*) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work ; and

(*c*) pay compensation to any person who sustains damage by the execution of the said work.

Rights of owner of land through which drain is carried in regard to subsequent building thereon.

133. If the owner of any land into, through or under which a drain has been carried under section 132 whilst such land was unbuilt upon, shall at any subsequent time desire to construct a building thereon, the Chief Officer, subject to the control of the standng committee shall, if he sanctions the construction of such building, by written notice require the owner or occupier of the building or land, for the benefit of which such drain was constructed, to close, remove or divert the same, and to fill in, reinstate and make good the land in such manner as he may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building.

Provision of provies, etc.

134. (*1*) Where the Chief Officer is of opinion that any privy or cesspool, or additional privies or cesspools, should be provided in or on any buildng or land, or in any municipal borough in which with the approval of the sanitary board, a water-closet system has been introduced, that water-closets should be substituted for the existing privies in or on any building or land, or that additional water-closets should be proved therein or thereon, the Chief Officer, subject to the control of the standing committee, may by written notice call upon the owner of such building, or land to privide such privies, cesspools or water-closets at such sites as he may deem proper.

(*2*) The Chief Officer subject to the control of the standing committee may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such latrines and urinals at such sites as he may direct, and to cause the same to be kept in proper order, and to be daily cleaned.

(*3*) The Chief Officer subject to the control of the standing committee may by written notice require the owner or occupier of any land upon which there is a privy or urinal, to have such privy or urinal shut out, by a sufficient roof and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as he may direct any privy door or trap door which opens on to any street, and which he deems to be a nuisance.

Power to require owners to keep drains, etc., in proper order; or to demolish or close a privy or cesspool.

135. (*1*) All sewers, drains, privies, water-closets, urinals, house-gullies and cesspools within a municipal borough shall, unless constructed, at the cost of the municipality, be altered, repaired, and kept in proper order at the cost and charge of the owners of the lands or buildings to which they belong, or for the use of which they have been constructed or continued; and the Chief Officer subject to the control of the standing committee may by written notice require any such owner to alter, repair, and put the same in good order in such manner as he may think fit.

(*2*) Subject to the control of the standing committee the Chief Officer may by written notice require the owner to demolish or close any privy or cesspool, whether constructed before or after the coming into operation of this Act, which in the opinion of the Chief Officer is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

Power to close existing private drains.

136. When any building or land within a municipal borough has a drain communicating with any cesspool or sewers, the Chief Officer, if he considers that such drain, though it may be sufficient for the drainage of such building or land and though it may be otherwise unobjectionable, is not adapated to the general sewerage of the locality, may, subject to the control of the standing committee, close such drain and such cesspool or sewer, whether they are or are not on land vested in the municipality, on providing a drain or drains equally effectual for the drainage of such building or land, and the Chief Officer may, subject as aforesaid, do any work necessary for the purpose.

Power in respect of sewers, etc., unauthorizedly constructed, rebuilt or unstopped.

137. The standing committee may by written notice require that any sewer, drain, privy, water-closet, urinal, house-gully or cesspool on any land within a municipal borough, constructed, rebuilt or unstopped—

(*a*) after such land became part of a municipal district or borough, and

(*b*) either without the consent or contrary to the orders, directions or general regulations or by-laws, of the municipality, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped,

shall be demolished, amended or altered, as it may deem fit, by the person by whom it was so constructed, rebuilt or unstopped; and every person so constructing, rebuilding or unstopping any such sewer, drain, privy, water-closet, urinal, house-gully or cesspool, whether he does or does not receive such notice or does or does not comply therewith, shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which may extend to twenty-five rupees.

Encroachments on municipal drains.

138. (*1*) Whoever, without the written consent of the Chief Officer first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in a municipality, shall be punished with fine which may extend to twenty-five rupees, and the Chief Officer may by written notice require such person to demolish, alter, remake, or otherwise deal with such drain as he may think fit.

(*2*) No building shall be newly constructed or reconstructed over any sewer, drain, culvert or gutter vested in a municipality, without the written consent of the Chief Officer, and the Chief Officer may by written notice require any person who has so constructed or reconstructed any building without such written consent, to pull down or otherwise deal with the same as he may think fit.

Inspection of drains, etc.

139. (*1*) A Chief Officer after due notice to the occupier may inspect any sewer, drain, privy, water-closet, urinal, house-gully or cesspool; and for that purpose, at any time between sunrise and sunset may enter upon any lands or buildings with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be.

Expense of inspection when to be borne by the municipality.

(*2*) The expense of such inspection and of causing the ground to be closed and made good as before shall be borne by the municipality, unless the sewer, drain, privy, water-closet, urinal, house-gully or cess-pool is found to be in bad order or condition, or was constructed in contravention of the provisions of any enactment or of any by-laws or orders thereunder in force at the time or issued in respect of such construction; in which case such expense shall be paid by the owner of such sewer, drain, privy, water-closet, house-gully or cess-pool; and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Standing committee may execute certain works under this sub-chapter without allowing option to person concerned of executing the same. Expenses in such cases by whom to be paid.

140. (*1*) The standing committee may, if it thinks fit, cause any work, the execution of which may be ordered by or on behalf of the municipality under any of the provisions of this sub-chapter, to be executed by municipal or other agency under its own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(*2*) The expenses of any work so done shall be paid by the person aforesaid, unless the municipality shall, by a general or special order or resolution, sanction as it is hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

141. Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of any private building or land, shall, if supplied, constructed or erected at the expense of the municipality, be deemed to be municipal property, unless the municipality shall have transferred its interest therein to the owner of such building or land. Pipes, etc., constructed by municipality to be municipal property.

(4) Powers in respect of water-supply.

142. For the purpose of obtaining a supply or an additional supply of water or of distributing the same, the municipality shall have the same powers and be subject to the same restrictions for carrying, renewing, repairing and altering water mains, pipes and ducts within or without the municipal borough as it has and is subject to under the provisions hereinbefore contained for carrying, renewing and repairing drain within the municipal borough. Power of carrying water mains.

(5) Powers regarding external structures, etc.

143. *(1)* The Chief Officer, subject to any by-laws made under the provisions of this Act, may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms, to project from any upper storey of such buildings, to an exent not exceeding four feet beyond the line of the plinth or basement wall of tht building; and may prescribe the extent to which and the conditions under whicheroofs, eaves, weather-boards, shop-boards and the like may be allowed to project over such streets. Permission necessary for certain projections.

(2) (*a*) Notwithstanding any proceedings which may be taken under clause (*b*) of this sub-section, the Chief Officer may, by written notice, require the owner or occupier of any such building to remove or alter any such projection which has been constructed either without, or contrary in any manner to, the permission or orders given or issued by or on behalf of the municipality.

(*b*) Any such owner or occupier putting up any projection as aforesaid without such permission or in contravention of such permission or orders, shall be punished with fine which may extend to twenty-five rupees; and if any such owner or occupier fails to remove any projection in respect of which he has been convicted under this section, he shall be punished with further fine which may extend to five rupees for each day on which such failure or neglect continues.

(3) The Chief Officer may, by written notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction which, whether made before or after the site of such building became part of a municipal district or borough, shall have been made against or in front of such building, and which— Removal of projections.

(*a*) overhangs or juts into or in any way projects or encroaches upon any public street, so as to be an obstruction to safe and convenient passage along such street, or

(*b*) projects and encroaches into, upon or over any uncovered aqueduct, drain or sewer in any such street, so as to obstruct or interfere with such aqueduct, drain or sewer or the proper working thereof:

Provided always that the Chief Officer shall, if such projection, encroachment, or obstruction shall have been made in any place before the date on which such place became part of a municipal district or borough or after such date with the written permission of the municipality, pay reasonable compensation

to every person who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in section 198.

Troughs and pipes for rain water.

144. The Chief Officer may by written notice require the owner of a building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same, in such manner as he may think fit, so that it shall not fall upon the persons passing along the street.

Fixing of lamps, brackets, etc., to houses.

145. The Chief Officer may erect or fix to the outside of any building brackets for lamps to be lighted with oil or gas, or subject to the provisions of the [1]Indian Electricity Act, 1910, for lamps to be lighted with electricity or otherwise or subject to the provisions of the [1]Indian Telegraph Act, 1885, for telegraph wires or telephone wires, or wires for the conduct of electricity for locomotive purposes; or such pipes as he may deem necessary for the proper ventilation of sewers and water-works; such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the occupants of the said building or of any others in the neighbourhood, or to the public. IX of 1910. XIII of 1885.

Naming streets and numbering houses; penalty for defacing, etc.

146. (*1*) The municipality may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end or corner of or entrance to a street, the name by which such street is to be known, and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

(*2*) Any person who destroys, pulls down or defaces any such name or number, or puts any name or number different from that put up by the municipality, and any owner or occupier of any building who shall not at his own expense keep such number in good order after it has been put up thereon, shall be punished with fine which may extend to twenty-five rupees.

Penalty for defacing building, etc.

147. Any person—

(*a*) who, without the consent of the owner or occupier, and in the case of municipal property without the permission in writing of the Chief Officer affixes any posting bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence, pale, post, lamp-post or the like, or

(*b*) who, without such consent as aforesaid, writes upon, soils, defaces or marks any such building, wall, board, fence, pale, post, lamp-post or the like, with chalk or paint or in any other way whatsoever,

shall be punished with fine which may extend to twenty rupees.

Removal and trimming of hedges, trees, etc.

148. The Chief Officer may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet; and to cut down, lop, or trim all trees or shrubs which in any way over-hang endanger or obstruct, or which such officer deems likely to over-hang endanger or obstruct any public street or to cause damage thereto, or which so overhang any public tank, well or other provision for water- supply as to pollute, or be likely to pollute the water thereof.

[1] Central Acts

(6) Powers for promotion of public health, safety and convenience.

Ruinous or dangerous buildings; precautionary measures.

149. (*1*) Where any building or anything affixed thereon is deemed by the Chief Officer to be in a ruinous state or likely to fall or in any other way dangerous to any inhabitant of such building or of any neighbouring building or to any occupier thereof or to passengers, the Chief Officer shall immediately, if it appears to him to be necessary, cause a proper hoard or fence to be put up for the protection of passengers:

Provided that if the danger be not of hourly imminence, the Chief Officer may, instead of causing a hoard or fence to be put up, issue in the first instance notice in writing to the owner or occupier to put up a proper hoard or fence, and in the event of the owner or occupier failing to put up within two days from the service of such notice a hoard or fence which the Chief Officer considers sufficient in the circumstances of the case, the Chief Officer, shall at once cause such hoard or fence to be put up.

Repairs to be made by owner or occupier; default by such.

(*2*) The Chief Officer shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure, or repair such building, or thing affixed thereon, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure such building or thing within three days after the service of such notice, and complete such work with due diligence, the Chief Officer shall cause all or so much of such building or thing as he shall think necessary to be taken down, repaired or secured.

(*3*) All expenses incurred by the Chief Officer under this section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply.

150. (*1*) A Chief Officer may at any time by written notice require that the owner of or any person who has the control over any well, stream, channel, tank or other source of water supply, shall, whether such source is private property or not, within a reasonable time to be specified in the notice, or in any case falling under clause (*d*) within twenty four hours of such notice—

(*a*) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(*b*) cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(*c*) in such manner as the Chief Officer may prescribe, protect any such source of water supply from pollution by surface drainage, or

(*d*) repair, protect or enclose in such manner as the Chief Officer approves, any such source of water supply other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the Chief Officer dangerous to the health or safety of the public or of any person having occasion to use or to pass or approach the same, or

(*e*) desist from using and from permitting others to use for drinking purposes any such source of water-supply, other than a stream in its natural flow, which is proved to the satisfaction of the Chief Officer to be unfit for drinking, or

(*f*) if notwithstanding any such notice under clause (*e*) such use continues and cannot in the opinion of the Chief Officer be otherwise prevented, close either temporarily or permanently or fill up or enclose or fence in such manner as the Chief Officer considers sufficient to prevent such use, such source of water-supply as aforesaid, or

(*g*) drain off or otherwise remove from any source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Chief Officer considers is injurious to health or offensive to the neighbourhood.

Remedy on non-compliance with directions issued.

(*2*) If the owner or person having control as aforesaid, fails or neglects to comply with any such requisition within the time specified by or under the provisions of sub-section (*1*), the Chief Officer may, and if in his opinion immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice; and all the expenses incurred therein by the Chief Officer shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII:

Provided that in the case of any well or private stream or of any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by the Chief Officer or necessarily incurred by such owner or person having such control, may, if the standing committee so direct, be paid from the municipal fund.

Displacing pavements, etc.

151. (*1*) Whoever displaces, takes up, or makes any alteration in the pavement, gutter, flags or other materials of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, water-post, hydrant, or other such municipal property therein, without the written consent of the Chief Officer or other lawful authority, shall be punished with fine which may extend to one hundred rupees.

Penalty for failure to replace after notice.

(*2*) Any person who, having displaced, taken up or made alteration in any such pavement, gutter, flags, or other materials or in such fences, walls, posts, municipal lamps, lamp-posts, brackets, water-posts, hydrants, or other municipal property, shall fail to replace or restore the same to the satisfaction of the Chief Officer after notice to do so, shall be punished with fine which may extend to fifty rupees, and shall pay any expense which may be incurred in replacing or restoring the same; and such expense shall be recoverabe in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Obstruction and encroachments upon public streets and open spaces.

152. (*1*) Whoever in any [1][area] after it has become a municipal district, or borough,

(*a*) shall have built or set up, or shall build or set up, any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(*b*) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing,

in any public [2][place or] street or in or over or upon any open drain, gutter, sewer, or aqueduct in such [2][place or] street shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(*2*) The Chief Officer shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorized obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the municipality or not: provided that if the space

[1] The word "area" was substituted for the word "place" by Bom. 19 of 1935, s. 10 (*a*) (*i*).
[2] The words "place or" were inserted, *ibid.*, s. 10 (*a*) (*ii*) and (*iii*).

be vested in His Majesty the permission of the Collector shall have first been obtained; the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(*3*) Whoever, not being duly authorized in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open space which is not private property, shall be punished with fine which may extend to fifty rupees, and, in the case of encroachment, with further fine which may extend to ten rupees for every day on which the encroachment continues after the date of first conviction for such offence.

(*4*) Nothing contained in this section shall prevent the Chief Officer from allowing any temporary occupation of or erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than ten days and in such manner as not to inconvenience the public or any individual [1][or from allowing the occupation of, or temporary erection of structures on, any such streets or spaces for any other purpose in accordance with by-laws made under the Act].

(*5*) Nothing contained in this section shall apply to any projection duly authorized under sub-section (*1*) of section 143.

Hoards to be set up during repairs, etc.

153. (*1*) A person intending to construct or take down any building or to alter or repair any building externally shall, if the position or circumstances of the work is or are likely to cause or may cause obstruction, danger or inconvenience in any street, before beginning such work—

(*a*) first obtain a licence in writing from the Chief Officer so to do, and

(*b*) cause sufficient hoards or fences to be put up in order to separate the area where the work is to be carried on from the street, and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Chief Officer during such time as the Chief Officer considers necessary for the public safety or convenience, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Chief Officer.

(*2*) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of such conviction for such offence.

Fencing and lighting during repairs, etc.

154. (*1*) The Chief Officer shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in the municipality, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings, and shall cause such bars, chains or posts as he shall think fit, to be fixed across or in any street to prevent the passage of carriages, carts or other vehicles, or of cattle or horses, while such construction or repair is being carried on and shall cause any such construction or repair work in a street to be sufficiently lighted and guarded during the night.

(*2*) Whoever takes down, alters or removes any of the said bars, chains, or posts, or removes or extinguishes any such light without the authority or consent of the Chief Officer, shall be punished with fine which may extend to fifty rupees.

[1] These words were added by Bom. 19 of 1935, s. 10 (*b*).

Timber not to be deposited or hole made in street without permission.

155. (*1*) No person shall, without the written permission of the Chief Officer or otherwise than in accordance with the conditions of such permission, make a hole in any street or deposit on any street any timber, stone, brick, earth or other material that has been or is intended to be used for building; such permission shall be terminable at the discretion of the Chief Officer; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed to the satisfaction of the Chief Officer until the materials are removed, or the hole is filled up or otherwise made secure, and shall cause such materials or hole to be sufficiently lighted during the night.

(*2*) Whoever contravenes any of the provisions of sub-section (*1*) shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction for such offence.

Dangerous quarrying.

156. (*1*) If in the opinion of the Chief Officer the working of any quarry or the removal of stone, earth or other material from the soil in any place, is dangerous to persons residing in or having a right of access to the neighbourhood thereof, or creates or is likely to create a nuisance, the Chief Officer may, by written notice, require the owner of the said quarry or place or the person responsible for such working or removal not to continue or permit the working of such quarry or the removing of such material, or to take such order with such quarry or place as the Chief Officer shall direct for the purpose of preventing the danger or of abating the nuisance arising or likely to arise therefrom:

Provided that if such quarry or place is vested in His Majesty, or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of [1][the Crown]; or any person acting with the permission or under the authority of [1][the Crown] or of any [2][servant of the Crown] acting as such, the Chief Officer shall not take such action, unless and until the Collector has consented to his so doing:

Provided further that the Chief Officer shall immediately cause a proper hoard or fence to be put up for the protection of passengers near such quarry or place, if it appears to him to be necessary in order to prevent imminent danger.

(*2*) Any expense incurred by the Chief Officer in taking action under this section shall be paid by such owner or the person responsible for such working or removal, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Provision as to dogs.

157. (*1*) The Chief Officer may by public notice require that every dog while in the streets and not being led by some person shall be muzzled in such a way as to allow the dog freely to breathe and to drink, while effectually preventing it from biting.

(*2*) Subject to the provisions of sub-section (*3*) the Chief Officer may take possession of any dog found wandering unmuzzled in any public place and may either detain such dog until its owner has claimed it, has provided a proper muzzle for it, and has paid all the expenses of its detention or cause it to be destroyed.

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[1] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "servant of the Crown" were substituted for the words "Officer of Government", *ibid.*

(*3*) When a dog which has been detained under the last preceding sub-section is wearing a collar with the owner's name and address thereon, such dog shall not be destroyed until a letter stating the fact that it has been so detained has been sent to the said address, and the dog has remained unclaimed for three clear days: provided that any dog which is found to be rabid may be destroyed at any time.

(*4*) Any unclaimed dog and any dog, the owner of which refuses to pay all the expenses of its detention may be sold or destroyed, after having been detained for the said period of 3 clear days.

(*5*) All expenses incurred by the Chief Officer under this section may be recovered from the owner of any dog which has been taken possession of or detained in the manner provided by Chapter VIII.

(*7*) *Powers for the prevention of nuisances.*

Depositing dust, etc.; committing nuisance.

158. (*1*) Whoever deposits or causes or suffers any member of his family or household to deposit any dust, dirt, dung, ashes, refuse, or filth of any kind or any animal matter or any broken glass or earthenware or other rubbish or any other thing that is or may be a nuisance, in any street or in any arch under a street or in any drain beside a street or on any open space or on any quay, jetty or landing-place or on any part of the seashore on the bank of a tidal river, whether above or below high-water mark, or on the bank of any river, water-course or nullah, except at such places, in such manner and at such hours as shall be fixed by the Chief Officer, and whoever commits or suffers any member of his family or household to commit nuisance in any such place as aforesaid, shall be punished with fine which may extend to twenty-five rupees.

(*2*) Whoever throws or puts or causes or suffers any member of his family or household to throw or put any of the matters described in sub-section (*1*) except night-soil, or, except with the permission of the Chief Officer, any night-soil into any sewer, drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance or suffers any member of his family or household to commit nuisance in any such sewer, drain, culvert, tunnel, gutter or water-course, or in such close proximity thereto as to pollute the same, shall be punished with fine which may extend to twenty-five rupees.

Discharging sewage, etc.;

159. Whoever causes or allows the water of any sink or sewer or any other liquid or other matter which is or which is likely to become offensive, from any building or land under his control, to run, drain, or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the Chief Officer or who fails to comply with any condition prescribed in such permission, shall be punished with fine which may extend to twenty-five rupees.

Non-removal of filth, etc.

160. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from and to cleanse and purify such receptacle, or keeps or allows to be kept in or upon

such building or land any animal in such a way as to cause a nuisance, shall be punished with fine which may extend to twenty-five rupees and with further fine which may extend to five rupees for every day on which such offence is continued, after the date of the first conviction for such offence.

Removal of night-soil.

161. (*1*) The Chief Officer may from time to time fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter.

(*2*) Whoever,—

(*a*) when the Chief Officer has fixed such hours and given public notice thereof by beat of drum, removes or causes to be removed along any street any such offensive matter at any time except within the hours so fixed, or

(*b*) at any time, whether such hours have been fixed by the Chief Officer, or not,

(*i*) uses for any such purpose any cart, carriage receptacle or vessel, not having a covering sufficient for preventing the escape of the contents thereof and of the stench therefrom, or

(*ii*) wilfully or negligently slops or spils any such offensive matter in the removal thereof, or

(*iii*) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

(*iv*) places or sets down in any public place any vessel containing such offensive matter, or

(*v*) drives or takes or causes to be driven or taken any cart, carriage, receptacle, or vessel used for any such purpose as aforesaid, through any street or by any route, other than such as shall from time to time be appointed for that purpose by the Chief Officer by public notice,

shall be punished with fine which may extend to twenty-five rupees.

Filthy buildings, etc.

162. (*1*) Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the Chief Officer a nuisance to persons residing in the neighbourhood, or overgrown with prickly-pear or rank and noisome vegetation and who shall not, within a reasonable time after notice in writing by the Chief Officer to cleanse, clear or otherwise put such building or land in a proper state have complied with the requisition contained in such notice, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which the failure to comply with the said notice is continued after the date of the first conviction for such offence.

Deserted and offensive buildings.

(*2*) Where any building, by reason of dilapidation, neglect, abandonment, disuse or disputed ownership, or of its remaining untenanted and thereby—

(*a*) becoming a resort of idle and disorderly persons, or of persons who have no ostensible means of subsistence, or who cannot give a satisfactory account of themselves, or

(*b*) coming into use for any insanitary or immoral purpose, or

(*c*) affording a shelter to snakes, rats or other dangerous or offensive animals,

is open to the objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the standing committee, if it considers such objection cannot under any other provision of this Act be otherwise removed, may, if there is any person known or resident within the municipal borough who claims to be the owner of such building, by written notice directed to such person, require

such person, or in any other case by written notice fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed; in the event of non-compliance with such requirement, the standing committee, on the expiration of the period specified as aforesaid, may forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by it in so doing; all such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Buildings or rooms in buildings unfit for human habitation.

163. (*1*) If, for any reason, it shall appear to the standing committee that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, the standing committee shall give to the owner or occupier of such building notice in writing, stating such reason, and signifying its intention to prohibit the further use of the building or room, as the case may be, as a dwelling, and shall in such notice call upon the owner or occupier aforesaid to state in writing any objection thereto within thirty days after the receipt of such notice; and if no objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the standing committee invalid or insufficient, the standing committee may by an order in writing prohibit the further use of such building or room as a dwelling.

(*2*) When any such prohibition as aforesaid has been made, the Chief Officer shall cause notice of such prohibition to be affixed to, and the letters "U. H. H." to be painted on, the door or some conspicuous part of such building or room as the case may be; and no owner or occupier of such building or room shall use or suffer the same to be used for human habitation until the standing committee certifies in writing that the building or room, as the case may be, has been rendered fit for human habitation.

Power to enter and inspect, etc. buildings.

164. It shall be lawful for the president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officer authorised by the municipality in this behalf, at any time between sunrise and suset after due notice to enter into and inspect all buildings and lands, and by written notice to direct for sanitary reasons all or any part thereof to be forthwith internally and externally lime washed or otherwise cleansed.

Bathing places.

165. (*1*) The standing committee may set apart sufficient public places, or any part of the seashore, not being private property, for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animls or clothes, or for any purpose connected with the health, cleanliness and comfort of the inhabitants, and may prohibit the use, for any purpose mentioned in this section, of any or all other public places within the municipal borough.

(*2*) Copis of all orders passed and notices issued by the standing committee and for the time being in force under this section, shall be kept at the municipal office and shall be open for inspection by the public at all reasonable time.

Regulation of washing of clothes by washermen.

[1][**165A.** (*1*) The standing committee may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as it shall appoint for this purpose ; and when any such prohibition has been made, no person who is, by calling, a washerman shall wash clothes at any place not appointed for this purpose by the standing committee, except for such person himself or for the owner or occupier of such place.

Washing place to be provided by the standing committee for washerman.

(*2*) The standing committee shall provide suitable places for the exercise by washermen of their calling and may require payment of such fees for the use of any such place as shall from time to time be determined by it with the approval of the municipality.

(*3*) The standing committee shall, before issuing any public notice under sub-section (*1*), publish in such manner as shall in its opinion be sufficient, for the information of persons likely to be affected thereby, a list of washing places proposed to be provided under sub-section (*2*), together with a notice specifying a date on or after which the list will be taken into consideration ; and shall, before finally fixing the said places, receive and consider any objection or suggestion in respect thereto which may be made in writing by any person before the date so specified.]

Fouling water.

166. Whoever, in disobedience of any order of the municipality under section 165, or of any by-law, bathes in any stream, pool, tank, reservoir, well, cistern, conduit or aqueduct belonging to the municipality, or washes or causes to be washed therein any animal or anything whatever, or throws, puts or casts or causes to enter therein any animal or anything, or causes or suffers to run, drain or be brought there into anything that is or may become a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted and whoever without permission of the Chief Officer steeps in any tank, stream, or ditch within or on the boundary of, the municipal borough any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance shall be punished with fine which may extend to fifty rupees.

Abatement of nuisance from wells, etc.

167. (*1*) If, in the opinion of the Chief Officer—

(*a*) any pool, ditch, quarry, hole, excavation, tank, well, pond, drain, water-course, or any collection of water, or

(*b*) any cistern or other receptacle for water whether within or outside a building, or

(*c*) any land on which water accumulates and which is situate within a distance of one hundred yards from any building used as a dwelling house, is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the Chief Officer may, by notice in writing, require the owner thereof to fill up, cover over or drain off the same in such manner and with such materials as the Chief Officer shall prescribe, or to take such order with the same for removing or abating the nuisance as the Chief Officer shall prescribe.

(*2*) (*a*) No new well, tank, pond, cistern or fountain shall be dug or constructed without the previous permission in writing of the Chief Officer.

(*b*) If any such work is begun or completed without such permission, the Chief Officer may either—

(*i*) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Chief Officer shall prescribe ; or

[1] This section was inserted by Bom. 12 of 1931, s. 3 (*iv*).

(*ii*) grant written permission to retain such work; but such permission shall not exempt such owner from proceedings for contravening the provisions of clause (*a*) of this sub-section.

Using offensive manure, etc.

168. Whoever, except with the written permission of the Chief Officer, and in accordance with the conditions of such permission, stores or uses night-soil or other manure or substance emitting an offensive smell, shall be punished with fine which may extend to twenty-five rupees.

Tethering cattle, etc.

169. Whoever tethers cattle or other animals, or causes or suffers them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper shall be punished with fine which may extend to twenty-five rupees.

Feeding animals on filth.

170. Whoever feeds any animal which is kept for dairy purposes or is intended for human food on excrementitious matter, stable-refuse, filth or other offensive matter, or permits such animal to feed or to be fed on such matter, shall be punished with fine which may extend to fifty rupees.

Consumption of smoke.

171. (*1*) It shall be lawful for the municipality to direct by public notice that every furnace employed, or to be employed, in any works or buildings used for the purpose of any trade or manufacture whatsoever, within the limits of the municipal borough whether a steam engine be or be not used or employed therein, shall in all cases be constructed, supplemented or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace.

(*2*) If any person shall after such direction use, or permit to be used, any such furnace not so constructed, supplemented or altered, or shall so negligently use, or permit to be used, any such furnace that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, such person being the owner or occupier of the said works or buildings or an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to fifty rupees and upon any subsequent conviction to five hundred rupees:

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

(*8*) *Regulation of markets, sale of food, etc.*

Licensing markets and slaughter-houses.

172. (*1*) It shall be lawful for the municipality to direct that no place other than a municipal market or slaughter-house, shall be used for any of the purposes specified in sub-clauses (*i*) and (*ii*) of clause (*b*) of sub-section (*1*) of section 61 except under and in accordance with the conditions of a licence from the standing committee, which may at its discretion from time to time grant, suspend, withhold or withdraw such licences either generally or in individual cases.

(*2*) Whoever uses or permits the use of any place contrary to such direction, or without the licence required as aforesaid, or in contravention of any of the conditions or during the suspension or after the withdrawal of such licence, shall be punished with fine which may extend to twenty-five rupees.

(*3*) Upon a conviction being obtained in respect of any place under sub-section (*2*) of this section, the magistrate shall, on the application of the standing committee but not otherwise, order such place to be closed, and thereupon appoint persons to take other steps to prevent such place being so used; and every person who so uses or permits the use of a place after it has been so ordered to be closed, shall be

punished with fine which may extend to five rupees for each day during which he continues so to use, or permits such use of, the place after it has been so ordered to be closed.

(*4*) Nothing in this section or in sub-clause (*ii*) of clause (*b*) of sub-section (*1*) of section 61 shall apply to any liquor as defined in the Bombay Abkari Act, 1878.[1] Bom. V of 1878.

Opening, closing and letting of markets and slaughter-houses.

173. (*1*) The municipality may from time to time open or close any public market or slaughter-house. It may also either take stallage or other rents or fees for the use by any person of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in or of otherwise using any such market or slaughter-house.

(*2*) Any person who, without the permission of or a licence from the municipality, shall sell or expose for sale any article in the said markets or use the said slaughter-houses, shall be punished with fine which may extend to twenty-five rupees.

Farming of market and slaughter-house rents.

174. It shall be lawful for the municipality to lease by public auction or private contract the collecting of any rent or fees which may be imposed under section 173 :

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

Slaughter-houses, etc., beyond municipal limits.

175. It shall be lawful for a municipality with the sanction of the Commissioner or, if authorised by him, of the Collector to establish slaughter-houses or places for the disposal of carcasses of animals beyond the limits of the municipal borough, and all provisions of this Act and of by-laws in force thereunder relating to such slaughter-houses or places within the municipal borough, shall have full force in slaughter-houses or places established under this section, as if they were within the municipal borough.

Search for and inspection of unwholesome articles.

176. (*1*) The president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officers authorised by the municipality in this behalf—

(*a*) may at all reasonable times enter into any place for the purpose of inspecting and may inspect any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles intended for human food or drink or for medicine, whether exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale, or may enter into and inspect any place used as a slaughter-house, and may examine anything which may be therein ; and

(*b*) in case any such animals, carcasses, or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or drink or medicine may seize the same.

Any article which is of a perishable nature may under the orders of the president, vice-president, chairman of the standing committee or Chief Officer if in his opinion it is diseased, unsound, unwholesome or unfit for human food, drink or medicine, forthwith be destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a Magistrate.

If it appear to the Magistrate upon sufficient evidence that any such animal or article is diseased or unsound or unwholesome or unfit for human food, drink or medicine, the owner or person in whose possession it was found, not being merely bailee or carrier thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply be punished with fine which may extend to one hundred rupees, and the Magistrate shall cause such animal or article to be destroyed or to be so disposed of as to prevent its being exposed for sale or use for human food or drink or medicine. XLV of 1860.

[1] See now the Bombay Prohibition Act, 1949 (Bom. 25 of 1949).

Adulterated articles for food or drink.

(2) In every municipal borough in which by virtue of a notification under sub-section (4) of section 1 of the [1]Bombay Prevention of Adulteration Act, 1899, the provisions of that Act are in force, and in respect of any food or drink to which the provisions of any section coming into force under sub-section (4) of section 1 of that Act are for the time being applicable in such borough by a notification, under sub-section (5) of section 1 of that Act, the following provisions shall be in force, namely :—

Bom. II of 1899.

If any article to which this sub-section is applicable as aforesaid is intended for food or drink, the president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officers authorised by the municipality in this behalf in case such article appears not to be what it is represented to be, may seize the same, and if it appears to a Magistrate upon sufficient evidence that such article is not what it is represented to be, such Magistrate may order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink ; and the owner thereof or the person in whose possession the same was found, not being merely carrier or bailee thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees.

XLV of 1860.

Explanation.—If such article having been exposed or stored in or brought to any place for sale as ghee contains any substance not exclusively derived from milk, it shall be deemed to be for the purposes of this sub-section, an article which is not what it is represented to be.

Protection to persons acting in good faith.

Where any article to which this sub-section is applicable, appears to the Magistrate not to be what it is represented to be, solely by reasons of the fact that there has been added to it some substance not injurious to health, no offence shall be deemed to have been committed by the owner of the article or the person in whose possession the same is found, if such owner or person proves to the satisfaction of the Magistrate—

(*a*) that such substance has been added to the article because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the article or conceal the inferior quality thereof, or

(*b*) that in the process of production, preparation or conveyance of such article, the extraneous substance has unavoidably become intermixed therewith, or

(*c*) that by a label distinctly and legibly written or printed on or with the said article or by other means of public description, he has given sufficient notice that such substance has been so added, or

(*d*) that—

(*i*) the said article was purchased by him with a written warranty that it was of a certain nature, substance and quality,

(*ii*) he had no reason to believe that it was not of such nature, substance and quality as aforesaid, and

(*iii*) it was not exposed, hawked about, or brought for sale by him otherwise than as an article of the nature, substance and quality specified in the written warranty, and was in the same state in which he purchased it :

Provided that this sub-section shall not apply to any borough to which the Bombay Prevention of Adulteration Act of 1925 has been extended.

Bom. V of 1925.

[1] On coming into operation of the Bombay Prevention of Adulteration Act, 1925 (Bom. 5 of 1925), in any local area, in respect of any article of food, Bom. 2 of 1899, except sec. 6, shall be deemed to have been repealed (*vide* Bom. 5 of 1925, sec. 20, Schedule B).

Application for summons to be refused if not applied for within reasonable time.

(*3*) In all prosecutions under this section the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against its provisions unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused.

Powers of inspection of weights and measures, etc.

[1]**[177.** The president, vice-president, chief officer or any councillor authorised by the municipality in this behalf may at all reasonable times enter into any place [2][(other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932)] where weights or measures or weighing or measuring instruments are used or kept for purposes of trade and inspect such weights or measures or weighing or measuring instruments.] Bom. XV of 1932.

(9) Regulation of dairies and cattle sheds.

Licensing of dairies.

178. (*1*) No person shall, for the purposes of trade, use or permit to be used any place for stabling milch cattle or for storing or selling milk or for making, storing or selling butter except under and in accordance with the terms of a licence from the standing committee.

(*2*) The standing committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one months notice to the licensee:

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any such notice.

(*3*) Whoever so uses or permits to be used any place for any of the aforesaid purposes without, or in contravention of any of the conditions of, or after the withdrawal of, or during the suspension of, such licence, shall be punished with fine which may extend to fifty rupees and in the case of a continuing offence with additional fine which may extend to ten rupees for each day during which such offence is continued after the date of the conviction for the first such offence.

(*4*) Upon a conviction being obtained in respect of any place under sub-section (*3*) the Magistrate shall, on the application of the municipality but not otherwise, order such place to be closed, and thereupon, appoint persons or take other steps to prevent such place being so used.

(10) Prevention of dangerous diseases.

Powers to prevent disease which may at any time be conferred.

179. (*1*) [3][The Provincial Government] may at any time confer by notification on any municipality designated therein, all or any of the powers specified in sub-section (*2*) and such municipality shall, subject to all such limitations, restrictions and conditions, if any, as [3][the Provincial Government] in the same or in any subsequent notification may prescribe in such behalf, exercise within the municipal borough every power so conferred on it, for such period as may be specified in this behalf, in any such notification, or if no period is so specified, then, until the power is withdrawn.

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[1] This section was substituted for the original section by Bom. 15 of 1932, Second Schedule, Pt. I.

[2] These words, brackets and figures were inserted by Bom. 9 of 1935, s. 6 (*1*).

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(2) The powers, all or any of which may be conferred under the preceding sub-section, are :

(*a*) power by orders, which may be either of special or general application, to direct that every medical practitioner, who knows or may have reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital, or that every manager of any factory or educational institution, or every head of a household, who knows or has reason to believe that any person who resides in any dwelling under his management or control, is suffering from any illness which may reasonably be supposed to be a dangerous disease, shall give information of the same with the least practicable delay to such person as may be designated by the municipality in that behalf ;

(*b*) power to direct or authorize the inspection, without notice, or with such notice as to the person directed or authorised to inspect appears reasonable of any place in which any dangerous disease is reported or suspected to exist and the taking of measures to prevent the spread of the disease beyond such place ;

(*c*) power to prohibit the removal of water for the purpose of drinking from any well, tank or other place which may appear to the municipality, on the advice of a medical officer, likely to endanger or cause the spread of any dangerous disease ;

(*d*) power to direct or cause the removal on a certificate signed by any duly qualified medical practitioner authorised by the municipality in this behalf, of any person who is without proper lodging or accommodation, or who is lodged in a room or set of appartments occupied by more than one family, or in a place where his presence may be a danger to the neighbourhood, and who is suffering from a dangerous disease, to any hospital or place at which persons suffering from the said disease are received for medical treatment ; and to prohibit the person so removed from leaving such hospital or place without the permission of the municipality ;

(*e*) power to require by written notice the owner or occupier of any building or part of a building, or a person owning or in charge of any article therein, to cleanse or disinfect such building or part thereof or article, either at his own expense, or in case of poverty, or for other cause which the municipality in the circumstances of the case considers reasonable, at the expense of the municipality ;

(*f*) power to provide the means and to prescribe places for disinfecting or washing, bedding or other articles which have been exposed to infection from any dangerous disease, and to direct the destruction thereof ;

(*g*) power—

(*i*) to provide and maintain suitable conveyance for the free carriage of persons suffering from any dangerous disease, and

(*ii*) when such provision is made to prohibit the conveyance of such person in all or any public conveyances, and

(*iii*) to direct that any conveyances that may at any time be used for conveying any such persons shall be immediately disinfected ;

(*h*) power to prohibit—

(*i*) any person suffering from any dangerous disease from wilfully exposing himself, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, dharmshala, theatre, market or other place of public resort, or

(*ii*) any person in charge of any person so suffering from so exposing such sufferer ;

(*i*) power to prohibit any person from removing to another place, or transferring to another person, except for the purpose of disinfection, any article which the person prohibited knows or has reason to believe has been exposed to infection of any kind whatsoever from any dangerous disease ;

(*j*) power to prohibit the letting of or the providing of accommodation in any hotel, inn, dharmshala, or serai, in which a person has, or in which there is reason to believe that a person has been suffering from a dangerous disease, unless and until the person desiring so to let or provide accommodation shall have had the building, or part thereof, and any article therein likely to retain infection, disinfected to the satisfaction of the municipality, or of such officer as the municipality may appoint in this behalf ;

(*k*) power, with the previous permission in each case of a Magistrate exercising not less than second class powers, to destroy any insanitary huts or sheds in which there is reason to believe that persons have been suffering from a dangerous disease.

(*3*) The municipality may, in its discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section, but, except as allowed by the municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(*4*) Any person who in a municipal borough disobeys any order which is for the time being in force therein, and which has been passed by the municipality in exercise of any power conferred on such municipality under this section, or obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order, shall be punished with fine which may extend to fifty rupees.

Duties of municipality on threatened or actual outbreak of dangerous disease.

180. (*1*) In the event of the municipal borough or any part thereof being at any time threatened or visited with an outbreak of any dangerous disease, the municipality shall take all such measures as the [1][Commissioner] may deem necessary for the purpose of preventing, meeting, mitigating or supressing such outbreak.

(*2*) In such event as aforesaid the [1][Commissioner] may by special notification declaring that such municipal borough is threatened or visited with an outbreak of a dangerous disease ,confer on the municipality all or any of the additional powers specified in the following sub-section, and such municipality shall, subject to such limitations, restrictions and conditions, if any, as the [1][Commissioner] in the same or in any subsequent notification may prescribe, exercise every such power so conferred on it until the same is withdrawn by means of a like notification.

(*3*) The powers, all or any of which may be conferred under the preceding sub-section, are—

(*a*) power to order, subject to the conditions—

(*i*) that the permission of a Magistrate exercising not less than second class powers shall be in each case first obtained, and

(*ii*) that accommodation for all persons to whom the order refers is available, or shall be provided, elsewhere,

the evacuation of an infected building used as a dwelling or of any part thereof, or of any building so used adjacent to such building by the person or persons residing, whether habitually or temporarily, therein ;

[1] The word "Commissioner" was substituted for the word "Government" by Bom. 19 of 1935, s. 11.

(*b*) power to direct the examination by a medical officer of persons and if necessary, the disinfection of the clothing, bedding, or other articles suspected of being infected, belonging to persons either arriving from places outside the municipal borough,or residing in any building adjacent to any infected building, and to direct that any such person shall give his address and present himself daily for medical examination at such times and places as may be prescribed, for a period not exceeding ten days;

(*c*) power to prohibit either generally or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the Civil Surgeon of the district or other medical officer appointed by [1][the Provincial Government] in this behalf, such assemblages in such place or in such circumstances or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

(*4*) The municipality may in its discretion give compensation to any person who sustains substantial loss by the destruction of any property under this section; but except as allowed by the municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(*5*) If in any municipal borough in which a notification under sub-section (*2*) is for the time being in force, any person—

(*a*) knowingly disobeys any order which for the time being is in force in such borough and which has been passed by the municipality in exercise of any power conferred on it under section 179 or under this section, or

(*b*) obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order,

such person shall be punished with fine which may extend to one thousand rupees.

Withdrawal and modification of powers and orders.

181. (*1*) [2][[1][The Provincial Government], in the case of any power conferred under section 179, and the Commissioner, in the case of any power conferred under section 180 may at any time—

(*a*) withdraw any such power;]

(*b*) cancel or modify any limitation, restriction or condition prescribed in respect of any such power; or

(*c*) cancel any order passed by a municipality in exercise of any such power.

(*2*) Every order passed by a municipality in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipal borough.

Duties of municipality in respect of diseases among cattle, sheep or goats.

182. If in any municipal borough any infectious disease amongst cattle, sheep or goats breaks out or if the introduction of any such disease appears to be likely, the municipality shall take all such measures as it may deem necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof.

Proceedings to abate the overcrowding of the interiors of buildings.

183. (*1*) Whenever the standing committee considers the interior of a building is so overcrowded as to be or to be likely to become dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the standing committee may cause proceedings to be taken before a Magistrate of the first class for the purposes of obtaining an order to prevent such overcrowding.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words, letter, figures and brackets were substituted for the original words, letter, brackets and figures by Bom. 19 of 1935, s. 12.

(*2*) Such Magistrate may, on the production of a certificate by a medical officer stating his opinion that the overcrowding complained of is likely to cause disease or risk of disease and after such further inquiry, if any, as may appear to such Magistrate necessary, requires the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other inmates of the said building to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

(*3*) If the owner of the said building shall have sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall for the purposes of this section be deemed to be the owner of the building.

(*4*) It shall be incumbent on any owner, to whom a requisition is issued under sub-section (*2*), forthwith to give to so many of the lodgers, tenants or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed in such requisition written notice to vacate the said building, within the period specified in such requisition, and any such lodgers, tenants or inmates receiving notice shall be bound to comply therewith.

(*5*) Any owner who after the date specified in any requisition issued under sub-section (*2*) permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with notice given to him under sub-section (*4*), shall be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding or such omission to vacate, continues.

Special powers which may be conferred by the Provincial Government in respect of overcrowded area.

184. (*1*) If [1][the Provincial Government] is of opinion that risk of disease has arisen or is likely to arise either to any occupier in, or to any inhabitant in the neighbourhood of, any area by reason of any of the following defects, namely—

(*a*) the manner in which either buildings or blocks of buildings, already existing or projected therein, are, or are likely to become, crowded together, or

(*b*) the impracticability of cleansing any such buildings or blocks of buildings, already existing or projected, or

(*c*) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks or area as aforesaid, or

(*d*) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings,

it may by notification confer on the municipality to which such area is subject, all or any of the powers specified in sub-section (*2*), and may, if it deems necessary, at any time make rules prescribing any limitations, restrictions, modifications, conditions or regulations, subject to which the municipality shall exercise within that area all powers so conferred, unless and until those powers are withdrawn by a subsequent notification of [1][the Provincial Government].

(*2*) The powers all or any of which may be conferred on a municipality under sub-section (*1*) are as follows:

(*a*) power when any building or block already existing or in course of erection, by reason of any defect specified in sub-section (*1*), has given or is in the opinion of the municipality likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block and addressed, as the municipality deems fit, either to the owners thereof or to

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

the owners of the land on which such building or block is erected or is in course of erection that the persons so addressed shall, within such reasonable time as shall be specified in the notice, either pull down or remove such building or block, or execute such works or take such action in connection therewith as the municipality deems necessary to prevent all such risk of disease;

(*b*) power by municipal or other agency to pull down or remove such building or block, or to execute such works or take such action as aforesaid, if the persons addressed in the said notice neglect so to do within the time specified therein;

(*c*) power, subject to a right of appeal to the Commissioner whose decision shall be conclusive, to prohibit, by written notice addressed to the owners and occupiers of any site or space hereinafter described and by general notice published in the manner provided in sub-section (*3*) of section 192, the erection of any building or of any building exceeding such dimensions as may be specified in such notice :—

(*i*) on the site of any building which has, in whole or in part, under the provisions of this section, been pulled down, or

(*ii*) on any space not occupied by buildings, whether such space is private property or not and whether it is enclosed or not, if the municipality considers that in order to prevent such risk as aforesaid, such site or space should not be built upon in whole or in part; and either to acquire such site or space or to prescribe such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to be made thereof:

Provided that in every case compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198, shall be paid to any person whose rights are affected by such prohibition.

(*3*) When, in pursuance of any notice under sub-section (*2*), any building has been pulled down, the municipality shall, unless such building has been erected contrary to any provision of this Act or of any by-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby, reasonable compensation, the amount of which shall in case of dispute be ascertained or determined in the manner provided in section 198.

(*4*) [1][The Provincial Government] may prescribe by rule a fine not exceeding five hundred rupees, for every breach, and a further fine not exceeding twenty-rupees a day for every continuing breach, of any order made or conditions imposed by the municipality in exercise of any powers conferred upon it under this section.

Closing of places for disposal of the dead.

185. (*1*) Where the municipality is of opinion that any place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, it may submit its opinion with the reasons therefor to the Commissioner and the Commissioner thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the said notification.

(*2*) A copy of the said notification together with a translation thereof in the vernacular of the district shall be published in the local newspapers, if any, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(*3*) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall be punished with fine which may extend to one hundred rupees.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(11) Nuisances from certain trades and occupations.

Regulation of certain trades.

186. *(1)* If it be shown to the satisfaction of the standing committee that any building or place used or intended by any person to be used—

(*a*) for boiling or storing offal, blood, bones or rags,
(*b*) for salting, curing or storing fish,
(*c*) for storing hides, horns or skins,
(*d*) for tanning,
(*e*) for the manufacture of leather or leather goods,
(*f*) for dyeing,
(*g*) for melting tallow or sulphur,
(*h*) for washing or drying wool or hair,
(*i*) as a brick pottery or lime kiln,
(*j*) for soap making,
(*k*) for oil-boiling or oil extracting,
(*l*) as a manufactory of sago,
(*m*) as a distillery,
(*n*) for storing hay, straw, fodder, wood, coal or other combustible material,
(*o*) as a manufactory of snuff,
(*p*) for the manufacture or sale of sweetmeats,
(*q*) as a factory, workshop or place of business in which animals are employed or intended to be employed for doing work or in which steam, water or any mechanical power is used or intended to be used,
(*r*) as a manufactory or place of business of any other kind, from which offensive or unwholesome smells arise, or which may involve risk of fire,
[1][(*s*) as a hair dressing saloon or a barber's shop or a hamamkhana,]

is or is likely to become by reason of such use and of its situation a nuisance to neighbourhood or is so used or is so situated as to be likely to be dangerous to life, health or property, the standing committee may by written notice require the owner or occupier—

(*i*) at once to discontinue the use of or at once to desist from carrying out or allowing to be carried out the intention so to use, such building or place or
(*ii*) to use it in such manner or after such structural alterations as the standing committee in such notice prescribes so that it may not become, or may be no longer, a nuisance or dangerous.

Explanation 1.—For the purpose of clauses (*q*) and (*r*) nuisance shall include any contamination of the atmosphere whereby a deposit of soot is caused or any mechanical noise.

Explanation 2.—Nothing in clauses (*q*) and (*r*) shall be deemed to affect any provision of the Indian Boilers Act, 1923, or shall authorize any order relating to the fixing or fencing of any engine, mill-gearing, hoist or other machinery in any factory to which the provisions of the [2]Indian Factories Act, 1911, are applicable. V of 1923. XII of 1911.

Liability to penalty after notice.

(2) Whoever after notice has been given under sub-section *(1)*, uses any building or place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous to life, health, or property, shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day on which such use or permission of use is continued after the date of the first conviction.

[1] Clause (*s*) was inserted by Bom. 19 of 1935, s. 13.

[2] See now the Factories Act, 1948, (63 of 1948).

(*3*) Upon a conviction being obtained under this section the Magistrate shall, on the application of the standing committee but not otherwise, order such place to be closed and thereupon appoint persons or take other steps to prevent such place being used for any purpose mentioned in sub-section (*1*).

Penalty for unlicensed places in district in which by-laws under section 61 (*1*) (*b*) (iii) are in force.

(*4*) whoever uses without a licence or during the suspension or after the withdrawal of a licence, any place for any purpose mentioned in sub-section (*1*) in any municipal borough in which by-laws are for the time being in force prescribing the conditions on or subject to which, the circumstances in which, and the areas or localities in respect of which, licences for such use may be granted, refused, suspended or withdrawn, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which such use is continued after the date of first conviction.

Prohibition of use of steam whistles, etc.

187. (*1*) No person shall use or employ in any factory or any other place any whistle or trumpet operated by steam or mechanical means for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the conditions of a licence from the standing committee.

(*2*) The standing committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any such notice.

(*3*) Whoever uses or employs any such whistle or trumpet as aforesaid without or in contravention of any of the conditions of or after the withdrawal of such licence, shall be punished with fine which may extend to fifty rupees.

Loitering or importuning for purposes of prostitution.

[1]**188.** Whoever in any street or public place within the limits of a municipal borough loiters for the purposes of prostitution or importunes any person to the commission of sexual immorality, shall be punished with fine which may extend to fifty rupees :

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the person importuned, or of a Police Officer not below the rank of an officer in charge of a police station and specially authorized in this behalf by the District Magistrate or by the municipality.

Brothels.

189. In any municipal borough—

(*a*) any part of which is within three miles of a cantonment, or

(*b*) to which on the application of the municipality [2][the Provincial Government] may by notification have declared this section to apply,

any Magistrate of the first class, on receiving information that a house within the limits of such borough is used as a brothel, may summon the owner or occupier of such house and on being satisfied that the house is so used, may order the owner or occupier to discontinue such use of it ; and, if such owner or occupier shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used :

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[1] In any municipal borough to which section 3 of the Bombay Prevention of Prostitution Act, 1923 (Bom. 11 of 1923), may be extended under section 1 of the said Act, section 188 of Bom. 18 of 1925 shall be deemed to have been repealed from the date of such extension (*vide* Bom. 11 of 1923, section 13 (2)].

The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

Provided that action under this section shall be taken only—

(*a*) with the sanction or by the order of the District Magistrate, or

(*b*) on the complaint of three or more inhabitants of the municipal borough residing in the vicinity of the house to which the complaint refers.

(12) Regulation of pilgrim's lodging houses.

Pilgrims' lodging houses.

190. (*1*) No person shall, in any municipal borough which [1][the Provincial Government] shall have declared by notification to be a pilgrim centre for the purposes of this section and of clause (*d*) of sub-section (*1*) of section 61, use or permit to be used any place or building for the purpose of lodging pilgrims except under and in accordance with the conditions of a licence from the standing committee.

(*2*) The standing committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any further notice.

(*3*) Whoever lodges or permits to be lodged any pilgrim in any place or building without or in contravention of any of the conditions of or after the withdrawal of or during the suspension of such licence, shall be punished with a fine not exceeding five rupees for each such pilgrim for each day or part of a day during which such pilgrim has been so lodged.

(13) Powers in case of fire.

..... and municipal officers to aid fire-brigade.

191. It shall be the duty of all police officers and of all municipal officers and servants to aid a fire-brigade in the execution of its duties. Such officers and servants may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire-brigade.

(14) Service of notices, penalties on non-compliance therewith and execution of works on default.

Service of notices, etc., addressed to individuals.

192. (*1*) The service of every notice and the presentation of every bill under this Act on any person or to any person to whom it is by name addressed, shall, in all cases not otherwise specially provided for in this Act, be effected by a municipal officer or servant or other person authorised by the Chief Officer in this behalf—

(*a*) by giving or tendering the notice or bill to the person to whom it is addressed ; or

(*b*) if such person is not found, by leaving the notice or bill at his last known place of abode, if within the municipal borough, or by giving or tendering, the notice or bill to some adult male member or servant of his family ; or

(*c*) if such person does not reside within the municipal borough, and his address elsewhere is known to the President or other person directing the issue or the notice or bill, then by forwarding the notice or bill by registered post under cover bearing the said address ; or

(*d*) if none of the means aforesaid be available, then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

[1] The words "The Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Service of notices on owners or occupiers of buildings and land.

(2) When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise specially provided for in this Act shall be effected either—

(*a*) by giving or tendering the notice to the owner or occupier or if there be more owners or occupiers than one, to any one of them ; or

(*b*) if no such owner or occupier be found, then by giving or tendering the notice to some male adult member or servant of the family of any such owner or occupier as aforesaid ; or

(*c*) if none of the means aforesaid be available, then by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

Public and general notices how to be published.

(3) Every notice which this Act requires or empowers a municipality or any municipal authority or officer to give or to serve either as a public notice or generally or by provisions which do not expressly require notice to be given to individuals therein specified shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the municipal office during such period and in such other public buildings and places, or is published in such local papers or in such other manner, as the municipality in bye-laws in this behalf prescribes.

Defective form not to invalidate notice.

(4) No notice or bill shall be invalid for defect of form.

Execution of acts required to be done by any notice.

(5) (*a*) Where any notice under this Chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(*b*) In the event of non-compliance with the terms of the notice it shall be lawful for the Chief Officer to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the municipality shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in section 199.

Punishment for disobedience of orders and notices not punishable under any other section

193. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by or on behalf of a municipality under any power conferred by this Chapter, or fails to comply with the conditions subject to which any permission was given to him by or on behalf of a municipality under any power so conferred, shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of the first conviction :

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was reasonable time within the meaning of this Act.

General penalty.

[1][**193A.** Whoever does or omits to be do an act in contravention of any provisions of this Act or the bye-laws made thereunder or the conditions of a licence or permission granted by a municipality under the said provisions or bye-laws shall if such act or omission is not an offence under the said provisions or bye-laws, be punished with fine which may extend to fifty rupees and with further fine which may extend to five rupees for every day on which such act or omission continues after the date of the first conviction.]

[1] Section 193A was inserted by Bom. 19 of 1935, s. 14.

Municipality in default of owner or occupier may execute works and recover expenses.

194. (*1*) Where under the provisions of this Act any work is required to be executed by the owner or occupier of any building or land and default is made in the execution of such work, the municipality, whether any penalty is, or is not provided for such default, may cause such work to be executed ; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to it by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalments as to the municipality may seem fit :

Provided that—

Agreement for construction of drainage and water connections.

(*a*) where any drainage scheme or water-works scheme has been commenced by any municipality, it shall be lawful for the municipality, without prejudice to its powers under section 129 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water-connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the municipality shall render : and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement or in default, in the manner described in sub-sections (*2*) and (*3*) ;

Improvement expenses.

(*b*) where an order or requisition has been passed under sub-section (*1*) of section 115, sub-section (*1*) of section 117, sub-section (*2*) or (*8*) of section 123 or under section 127, 129, 134 or 135 or where permission has been given under section 131, or where an arrangement has been made under proviso (*a*) of this sub-section, the municipality may, without prejudice to any other powers under this Act, if it think fit, declare any expenses incurred by the municipality in the execution of such order or in the carrying out of such requisition, permission or arrangement to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, and shall be levied in such instalments as the municipality may decide, including interest at the rate of seven and a half per cent. per annum, and shall be recoverable in the manner described in sub-sections (*2*) and (*3*).

Power to levy charges on occupier who may deduct the same from his rent.

(*2*) If the defaulter be the owner of the building or land the municipality may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (*3*), the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or any time thereafter, occupies the building or land under such owner ; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII ; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than the amount of rent due.

(*3*) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable, at the time of the demand made upon him or which at any time after such demand and notice not to pay rent to the landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the municipality, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable ; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier :

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of any such expenses as aforesaid.

Occupier in default of owner, may execute works and deduct expenses from his rent.

195. Where default is made by the owner of any building or land in the execution of any work required to be executed by him, the occupier of such building or land may, with the approval of the municipality cause such work to be executed and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings if any occupier opposes the execution of the Act.

196. If the occupier of any building or land prevent the owner thereof from carrying into effect in respect of such building or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier, any Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order; and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute, any such work, such occupier shall for every day during which he so continues to refuse be punished with fine which extend to fifty rupees and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

(*15*) *Miscellaneous.*

Entry for purposes of the Act.

197. It shall be lawful for the president, vice-president, Chief Officer or any officer authorised by the Chief Officer for such purpose, to enter for any purpose of this Act, between sunrise and sunset, with such assistants as he may deem necessary, into and upon any building or land:

Provided that, except when herein otherwise provided, no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours' written notice thereof having been given to the said occupier:

Provided also that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

Arbitration in cases of compensation, etc.

198. (*1*) If an agreement is not arrived at with respect to any compensation or damages which are by this Act directed to be paid, the amount and if necessary the apportionment of the same shall be ascertained and determined by a panchayat of five persons, of whom two shall be appointed by the municipality, two by the party to or from whom such compensation or damages may be payable or recoverable, and one, who shall be sir-panch, shall be selected by the members already appointed as above.

(*2*) If either party or both parties fail to appoint members, or if the members fail to select a sir-panch within one month from the date of either party receiving written notice from the other of claim to such compensation or damages, such members as may be necessary to constitute the panchayat shall be appointed, at the instance of either party, by the District Judge.

(*3*) In the event of the panchayat not giving a decision within one month from the date of the selection of the sir-panch or of the appointment by the District Court of such members as may be necessary to constitute the panchayat, the matter shall, on application by either party, be determined by the District Court which shall, in cases in which the compensation is claimed in respect of land, follow as far as may be the procedure provided by the [1]Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court : I of 1894.

Provided that -

(*a*) no application to the Collector for a reference shall be necessary and

(*b*) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.

(*4*) In any case where the compensation is claimed in respect of land and the panchayat has given a decision, either party if dissatisfied with the decision, may within a month of the date thereof apply to the District Court and the matter shall be determined by the District Court in accordance with the provisions of sub-section (*3*).

(*5*) In any case where the compensation is claimed in respect of any land or building the municipality may after the award has been made by the panchayat or the District Court, as the case may be, take possession of the land or building, after paying the amount of the compensation determined by the panchayat or the District Court to the party to whom such compensation may be payable. If such party refuses to accept such compensation, or if there is no person competent to alienate the land or building, or if there is any dispute as to the title to the compensation or as to the apportionment of it, the municipality shall deposit the amount of the compensation in the District Court.

Costs or expenses how determined and recovered.

199. If a dispute arises with respect to any costs or expenses which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same shall, save where it is otherwise expressly provided in this Act, be ascertained and determined by the standing committee and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

CHAPTER X.

Prosecutions, Suits and Powers of Police.

Municipality may prosecute.

200. (*1*) The standing committee and, subject to the provisions of sub section (*3*) the Chief Officer may direct any prosecution for any public nuisance whatever and may order proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Act or of any rule or by-law thereunder and may order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund :

Provided that no prosecution for an offence under this Act or by laws framed thereunder shall be instituted except within six months next after the commission of such offence.

Jurisdiction of Magistrate ; recovery of compensation and expenses.

(*2*) Any prosecution under this Act or under any rule or by-law thereunder may, save as therein otherwise provided, be instituted before any Magistrate ; and every fine or penalty imposed under or by virtue of this Act or any rule or by law thereunder, and any compensation, expenses, charges or damages for the recovery of which no special provision is otherwise made in this Act may be recovered on application

[1] Central Acts.

to any Magistrate by the distress and sale of any moveable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

(*3*) The Chief Officer shall not, except with the previous approval of the standing committee, direct a prosecution or order proceedings to be taken for the punishment of any person offending against the provisions of the following sections or sub-sections, namely :—

section 55 ; sub section (*4*) of section 118 ; section 171 ; and sub-section (*4*) of section 117 ; sub-section (*4*) of section 184.

Limitation of suits, etc.

206. No person shall commence any suit against any officer or servant of a municipality or any person for anything done or purporting to have been done under the provisions of this Act, without giving to such municipality, officer or servant a month's previous notice in writing of the intended suit and of the cause thereof, nor after the expiration of three months from the date of the act complained of, and unless such suit is commenced within six months after the said act has been committed.

Distress lawful though defective in form.

207. No distress levied or attachment made by virtue of this Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any summons, conviction, warrant of distress or attachment or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Powers of police officers.

208. (*1*) Any Police officer may arrest without warrant any person committing in his view any offence against any of the provisions of this Act or of any rule made thereunder if the name and address of such person is unknown to him and such person refuses on demand to give his name and address or if the Police-officer has reason to believe that the name and address given by such person may be false.

Damage to municipal property how made good.

209. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of a municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted ; and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

(*2*) It shall also be the duty of all Police-officers to give information to the municipality or the Commissioner or any officer or servant of the municipality of any accident by fire or other dangerous casualty happening within the limits of the municipality, or of any by-law, direction or order made thereunder coming to their knowledge, or of the commission of any offence punishable under this Act or any by-law, direction or order made thereunder coming to their knowledge, and to assist the municipality or the Commissioner or any officer or servant of the municipality in the execution of their duties under this Act.

Alternative procedure by suit.

210. In lieu of any process of recovery allowed by or under this Act, or in case of failure to realise by such process the whole or any part of any amount recoverable under the provisions of Chapter VIII, or of any compensation, expenses, charges or damages payable under this Act, it shall be lawful for a municipality to sue in any Court of competent jurisdiction the person liable to pay the same.

Accounts to be kept.

211. Accounts shall be kept in accordance with the Municipal Account Code as the Provincial Government may in that case with the previous sanction of the Commissioner direct.

CHAPTER XI

LEGAL PROCEEDINGS

Power to sue, compromise and pay compensation.

212. (*1*) A municipality may sue in any Court of competent jurisdiction any person who may have in any way caused or may appear likely to cause any injury to any property, rights or privileges of the municipality.

(*2*) A municipality may compound or compromise in respect of any suit instituted by or against it, or, in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient.

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract.

(*3*) A municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it, its committees, officers and servants under this Act.

(*4*) The municipal fund shall be liable to pay the expenses of any civil proceeding prosecuted or defended on its behalf.

Assistance for the recovery of rent on land.

213. For the purpose of the recovery of any amount due on account of rent from any person to a municipality in respect of any land vested in or otherwise held by such municipality, the municipality shall be deemed to be a superior holder and every such person an inferior holder of such land, within the meaning of sections 86

and 87 of the Bombay Land Revenue Code, 1879; and the municipality as superior holder shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections a superior holder is entitled for the recovery of rent or land revenue payable to him by an inferior holder. Bom. V of 1879.

Limitation of suits, etc.

206. No person shall commence any suit against any municipality or against any officer or servant of a municipality or any person acting under the orders of a municipality for anything done or purporting to have been done in pursuance of this Act, without giving to such municipality, officer, servant or person two months previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of;

and in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Powers of police officers.

207. (*1*) Any Police-officer may arrest any person committing in his view any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person is unknown to him, and if he declines to give his name and address or if the Police-officer has reason to doubt the accuracy of such name and address if given; and such person may be detained at the station house until his name and address has been correctly ascertained:

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

(*2*) It shall also be the duty of all Police-officers to give immediate information to the municipality of the commission of any offence against the provisions of this Act or of any by-law thereunder and to assist all municipal officers and servants in the exercise of their lawful authority.

Accounts to be kept.

208. Accounts of the receipts and expenditure of every municipality shall be kept in accordance with the Municipal Account Code subject to such modifications as [the Provincial Government] may in each case direct.

CHAPTER XI.

MUNICIPAL ACCOUNTS.

Presentation of accounts Budget Estimates.

209. (*1*) A municipality shall have prepared and laid before it, at its periodical general meetings, complete accounts of the receipts and expenditure of the municipality since the 1st day of April last preceding, and at a general meeting which shall be held on such day between the 10th January and the 1st of March as may be fixed in this behalf by the rules of the municipality, a complete account of the actual and expected receipts and expenditure for the financial year ending on the 31st March next following, together with a budget estimate of the income and expenditure of the municipality for the financial year to commence on the 1st April next following.

(*2*) The municipality shall thereupon decide upon the appropriation and the ways and means contained in the budget of the year to commence on the 1st April next following. The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable, at a special general meeting called for the

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Collector's powers of suspending execution of orders, etc., of municipality.

Provided that the standing committee or any other committee appointed under the Act may, within the budget so sanctioned, sanction re-appropriations not exceeding Rs. 500 from one sub-head to another or from one minor head to another minor head under the same major head and controlled by the same committee. A statement of such re-appropriations shall be submitted to the municipality at every quarterly general meeting.

Collector's order to be reported to Commissioner and to be subject to revision or modification by him.

(3) The municipality shall at the general meeting in April or after audit of the past year's accounts, if such audit has not before that general meeting taken place, pass the accounts of the past years.

Audit of accounts.

210. [1][(1) Independently of the audit provided for under the provisions of the Bombay Local Fund Audit Act, 1930, the municipal accounts may be audited at such intervals and by such agency as may be prescribed in the rules of the municipality.]

Bom. XXV 1930.

Every case under this section to be reported to Provincial Government for the final order.

(2) The auditor shall, for the purposes of his office, have access to all the accounts and other records of the municipality.

Transmission of accounts to Provincial Government.

211. A municipality shall as soon as the accounts of the past year have been finally passed by it transmit to [2][the Provincial Government] or any officer duly authorized by it in this behalf, a copy thereof, or an account in such form as [2][the Provincial Government] may prescribe, and shall furnish such details and vouchers relating to the same as [2][the Provincial Government] or such officer may from time to time direct.

Publication of accounts.

212. The quarterly and annual accounts, receipts and expenditure, and the budget when sanctioned, shall be open to public inspection, and shall be published in such manner as the municipality may prescribe in this behalf.

Power of Collector in case of emergency.

CHAPTER XII

CONTROL.

Power of inspection and supervision.

213. (*1*) The Commissioner, Collector or any officer of Government authorized by [2][the Provincial Government] by a general or special order shall have power—

(*a*) to enter on and inspect or cause to be entered on and inspected any immovable property occupied by any municipality or any institution under its control or management or any work in progress under it or under its direction;

(*b*) to call for or inspect any extract from any municipality's or any committee's proceedings and any book or document in the possession or control of a municipality.

Power of Commissioner to prevent extravagance in the employment of establishment.

(*2*) The Collector shall have power—

(*a*) to call for any return, statement, account or report which he may think fit to require such municipality to furnish;

(*b*) to require a municipality to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by or on behalf of such municipality or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipality, and to make a written reply within such time, stating its reasons for not desisting from doing or for not doing such thing.

[1] This sub-section was substituted for the original sub-section by Bom. 25 of 1930, s. 16(2).

[2] The words "the Provincial Government" were substituted for the words "the Governor in Council" by the Adaptation of Indian Laws Order in Council.

Collector's powers of suspending execution of orders, etc., of municipalities.

214. (1) If, in the opinion of the Collector, the execution of any order or resolution of a municipality, or the doing of anything which is about to be done or is being done by or on behalf of a municipality, is causing or is likely to cause injury or annoyance to the public or to lead to a breach of the peace or is unlawful, he may by order in writing under his signature suspend the execution or prohibit the doing thereof.

Collector's order to be reported to Commissioner who may confirm or modify it.

(2) When the Collector makes any order under this section, he shall forthwith forward to the Commissioner and to the municipality affected thereby a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order or to direct that it continue in force with or without modification permanently or for such period as he thinks fit.

Every case under this section to be reported to Provincial Government for their final orders.

(3) The Commissioner shall forthwith submit to [1][the Provincial Government] a report of every case occurring under this section, and [1][the Provincial Government] may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made:

Provided that no order of the Collector or the Commissioner passed under this section shall be confirmed, revised or modified by [1][the Provincial Government] without giving the municipality reasonable opportunity of showing cause against the said order.

Extraordinary powers of Collector in case of emergency.

215. (1) In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which may be executed or done by or on behalf of a municipality and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public; and may direct that the reasonable expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the municipality.

Power of inspection and supervision.

(2) If the expense and remuneration are not so paid, the Collector may make an order directing any person, who for the time being has custody of any moneys on behalf of the municipality, as its officer, treasurer, banker or otherwise, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(3) The provisions of sub-sections (2) and (3) of section 214 shall apply, so far as may be, to any order made under this section.

Power of Commissioner to prevent extravagance in the employment of establishment.

216. If in the opinion of the Commissioner the number of persons who are employed by a municipality as officers or servants, or whom a municipality proposes to employ, or the remuneration assigned by the municipality to those persons or to any particular person is excessive the municipality shall, on the requirement of the Commissioner, reduce the number of the said persons, or the remuneration of the said person or persons:

Provided that the municipality may appeal against any such requirement to [1][the Provincial Government] whose decision shall be conclusive.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

Inquiry into municipal matters by Provincial Government.

217. [1][The Provincial Government] may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any municipal borough or any matters with respect to which its sanction, approval or consent is required under this Act.

(*2*) The officer holding such inquiry shall for the purposes thereof have the powers which are vested in a Court under the Code of Civil Procedure in respect of the following matters :—

V of 1908.

(*a*) discovery and inspection,

(*b*) enforcing the attendance of witnesses, and requiring the deposit of their expenses,

(*c*) compelling the production of documents,

(*d*) examining witnesses on oath,

(*e*) granting adjournments,

(*f*) reception of evidence taken on affidavit, and

(*g*) issuing commissions for the examination of witnesses;

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

V of 1898.

Explanation.—For the purpose of enforcing the attendance of witnesses the local limits of such officer's jurisdiction shall be the limits of the Bombay Presidency.

(*3*) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(*4*) Costs shall be in the discretion of [1][the Provincial Government] and [1][the Provincial Government] shall have full power to determine by and to whom and to what extent such costs are to be paid, and to allow interest on costs at a rate not exceeding 6 per cent. per annum; and such costs and interest shall be leviable as an arrear of land revenue.

Power of Provincial Government to provide for performance of duties on default by municipality

218. (*1*) When [1][the Provincial Government] is informed, on complaint made or otherwise, that default has been made in the performance of any duty imposed on a municipality by or under this Act or by or under an enactment for the time being in force, [1][the Provincial Government], if satisfied after due inquiry that the alleged default has been made may direct the Commissioner to fix a period for the performance of that duty.

(*2*) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the municipality.

[2][(*3*) If the expense and remuneration are not so paid, the Commissioner may make an order directing the bank in which any moneys of the municipality are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the municipality are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the municipality in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the municipality by way of deposit

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] This sub-section was substituted for the original sub-section (*3*) by Bom. 23 of 1931, s. 4 (*ii*).

by such bank or person ; and such bank or person shall be bound to obey such order. Every payment made persuant to such order shall be a sufficient discharge to such bank or person from all liability to the municipality in respect of any sum or sums so paid by it or him out of the moneys of the municipality so deposited with such bank or person.]

Power of Provincial Government to dissolve or supersede municipality in case of incompetency, default or abuse of power.

219. (*1*) If, in the opinion of [1][the Provincial Government], a municipality is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or otherwise by law, exceeds or abuses its powers, [1][the Provincial Government] may, after giving the municipality an opportunity to render an explanation, by an order published, with the reasons therefor, in the [2][*Official Gazette*] declare the municipality to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and may dissolve such municipality or supersede it for a period to be specified in the order.

Consequences of dissolution or supersession.

(*2*) When the municipality is so dissolved or superseded, the following consequences shall ensue :—

(*a*) all councillors of the municipality shall, in the case of supersession as from the date of the order of supersession, and in the case of dissolution as from the date specified in the order of dissolution vacate their offices as such councillors ;

(*b*) all powers and duties of the municipality shall, during the period of dissolution or supersession, be exercised and performed by such person or persons as the Commissioner from time to time appoints in this behalf ;

(*c*) all property vested in the municipality shall, during the period of dissolution or supersession, vest in His Majesty ;

(*d*) the person or persons appointed under clause (*b*) may delegate his or their powers and duties to an individual or to a committee or sub-committee ;

(*e*) when more than one person are appointed under clause (*b*) they may sue or be sued by any one of them who has been duly authorised to sue and be sued on behalf of the rest by a resolution duly passed by them in this behalf.

Re-establishment of municipality after dissolution.

(*3*) On the issue of an order of dissolution under sub-section (*1*) elections of councillors shall be held under the provisions of this Act or of the rules made thereunder on or before a date to be specified by [1][the Provincial Government] in the order, and the municipality shall be re-established by the election or appointment of councillors under the aforesaid provisions on such date as may be specified by [1][the Provincial Government] in the aforesaid order.

Power after inquiry to continue period of supersession.

(*4*) If, after inquiry made, [1][the Provincial Government] so directs the period of supersession with all the consequences aforesaid shall, from time to time be continued by an order published as aforesaid until such date as may be fixed by [1][the Provincial Government] for the re-establishment of the municipality.

(*5*) After the municipality is superseded it shall be re-established by the election or appointment of councillors under the provisions of this Act or the rules made thereunder applicable thereto,

(*a*) if no direction has been made under sub-section (*4*) on the expiration of the period specified in the order of supersession under sub section (*1*), and

(*b*) if a direction has been made under sub-section (*4*) on such date as is fixed under that sub-section for the re-establishment of the municipality.

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*

220. In all matters, connected with this Act, [1][the Provincial Government] Commissioners and Collectors shall, respectively, have and exercise the same authority and control over Commissioners, Collectors and their subordinates as in matters of general and revenue administration. Powers of Provincial Government and of the Commissioners over Collectors, etc.

221. All rules made by [1][the Provincial Government] or the Commissioner under this Act shall be laid [2][before each Chamber of the Provincial Legislature] for one month previous to the session thereof, and shall be liable to be rescinded or modified by a resolution [3][in which each of the said Chambers concurs during] its next session. All rules made by Provincial Government or Commissioner to be laid before each Chamber of the Provincial Legislature.

SCHEDULE I.

(See section 4.)

MUNICIPAL BOROUGHS.

Northern Division.

1. Ahmedabad.
2. Nadiad.
3. Broach.
4. Surat.
5. Thana.
[4]6. *
[5]6A. Godhra.

Bombay Suburban

7. Bandra.
[6]Kurla.

Central Division.

8. Ahmednagar.
9. Jalgaon.
10. Bhusaval.
11. Amalner.
12. Dhulia.
13. Nasik.
14. Poona City.
15. Poona Suburban.
16. Lonavla.
17. Satara City.
18. Sholapur.
19. Pandharpur.
[7]20. Chalisgaon.
[8]21. Barsi.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council", *ibid.*

[3] The words "in which each of the said Chambers concurs during" were substituted for the words "of the said Council tabled at", *ibid.*

[4] Godhra Municipal borough was repealed by Government Notifiction in the General Department No. 371, dated 29th September 1927, published in the *Bombay Government Gazette*, 1927, Part I-A, p. 56.

[5] Entry 6A was added by G. N., G. D., No. 3759/33, dated 15th February 1944.

[6] Kurla Municipality was included in this Schedule by Government Notification in the General Department No. 5107, dated the 19th April 1929, published in the *Bombay Government Gazette*, 1929, Part I-A, p. 65.

[7] Entry 20 was added by G.N., G.D., No. 9029, dated 28th September 1932.

[8] Entry 21 was added by G.N., G.D., No. 1408/33, dated 6th July 1936.

Southern Division.

22. Belgaum.
23. Bijapur.
24. Dharwar.
[1]24A. Nipani.
25. Hubli.
26. Gadag-Bettigeri.
27. Ratnagiri.

Sind.

28. Hyderabad.
29. Sukkur.
30. Shikarpur.
31. Larkana.

SCHEDULE II.

(*See clause* (*b*) *of section 75.*)

Notice is hereby given to the inhabitants of the municipal borough of that the municipality desire to impose the tax, rate, toll, octroi or cess (*as the case may be*) defined in the rules appended (in lieu of the tax known as the which is published at page of the sanctioned rules*).

*To be inserted if the tax is to be substituted for any existing tax.

Any inhabitant of the municipal borough objecting to the proposed tax may, within one month from the date of this notice, send his objection in writing to the municipality.

RULES.

[*The rules approved by the Municipality under clause* (*a*) *of section 75 are to be appended here.*]

SCHEDULE III.

(*See section 88.*)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS BEEN EFFECTED BY INSTRUMENT.

To

THE CHIEF OFFICER,
Municipality.

I, *A. B.*, hereby give notice as required by section 88 of the Bombay

[1] Entry 24A was added by G. N., G. D., No. 5296/33, dated 6th June 1944.

[1][Municipal Boroughs] Act, 1925, of the following transfer of property :—

Date of Notice.	Date of instrument.	Name of vendor or assignor.	Name of purchaser or assignee.	Amount of consideration.	DESCRIPTION OF THE PROPERTY.						If any instrument has been registered, the date of registration.	Remarks.
					Of what it consists.	Situation.	Number in Assessment Book.	Chief Officer's No.	Dimensions of land.	Boundaries.		

Dated

(Signed)

SCHEDULE IV.

(See section 88.)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS TAKEN PLACE OTHERWISE THAN BY INSTRUMENT.

To

THE CHIEF OFFICER,
Municipality.

I, *A. B.*, hereby give notice as required by section 88 of the Bombay [1][Municipal Boroughs] Act, 1925, of the following transfer of property :—

Date of Notice.	Name in which the property is at present entered in the Chief Officer's record	To whom it is to be transferred.	DESCRIPTION OF THE PROPERTY.						Remarks.
			Of what it consists.	Situation.	Number in Assessment Book.	Chief Officer's No.	Dimensions of land.	Boundaries.	

Dated

(Signed)

[1] The words "Municipal Boroughs" were substituted for the words "City Municipalities" by Bom. 24 of 1936, sec. 2, Schedule.

SCHEDULE V.

(See sub-section (3) of section 104.)

FORM OF NOTICE OF DEMAND.

To

A. B., residing at

Take notice that the municipality of demand from the sum of due from on account of

(Here describe the property or other thing in respect of which the tax is leviable.)

leviable under rule No. for the period of commencing on the day of 19 , and ending on the day of 19 , and that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at , and sufficient cause for non-payment is not shown to the satisfaction of the Chief Officer, a warrant of distress or attachment will be issued for the recovery of the same with costs.

Dated this day of 19 .

(Signed)

Chief Officer.

SCHEDULE VI.

(See sub-section (1) of section 105.)

FORM OF WARRANT.

(Here insert the name of the officer charged with the execution of the warrant.)

Whereas A. B. of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the tax* mentioned in the margin for the period commencing on the day of 19 , and ending with the day of 19 , and leviable under rule No. ;

*Here describe the tax.

And whereas fifteen days have elapsed since the service on him of notice of demand for the same;

This is to command you to distrain / attach subject to the provisions of section 105 of the Bombay City Municipalities Act, [...] the goods and chattels / any property of the said A. B. to the amount of .....being the amount due from him, as follows :—

	Rs.	a.	p.
On account of the said tax ...			
For service of notice ...			
[1][For issue of warrant] ...			

and forthwith to certify to me together with this warrant all particulars of the goods distrained / property attached by you thereunder.

Dated this day of 19 .

(Signed)

Chief Officer.

SCHEDULE VII.

(See clause (c) of sub-section (4) of section 105 and sub-section (1) of section 98.)

Form of Inventory and Notice.

To

A. B., residing at

Take notice that I have this day distrained / attached the goods and chattels / property specified in the inventory beneath this, for the value of due for the tax* mentioned in the margin for the period commencing with the day of 19 and ending with the day of 19 together with Rs. due as for service of notice of demand [2][and Rs. due as for issue for warrant] and that unless within five days from the day of the date of this notice you pay into the municipal office at the said amount together with the costs of recovery, the said goods and chattels / property will be sold.

*Here describe the tax.

Dated this day of 19 .

Signature of officer executing the warrant / collecting octroi.

Inventory.

(Here state particulars of goods and chattels / property seized.)

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[1] These words were inserted by Bom. 12 of 1931, s. 3 (v).
[2] These words were added by Bom. 19 of 1935, s. 15.